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Freezing Axis Funds

By WARD STEWART

Assistant Director, Foreign Funds Control

OF ALL the powerful weapons being wielded by the people of the United States against Axis aggression, the "freezing control" exercised by Foreign Funds Control in the Treasury Department is perhaps the least generally understood. Guns, tanks, dive-bombers, and the other paraphernalia of military combat carry their own punch. Their impact is swift and dramatic. The popular conception of the freezing control on the other hand—if, indeed, there is any popular conception—would probably be epitomized by an anonymous and cold-blooded government agent standing silent vigil over some figurative icehouse in which are incarcerated for the duration the liquid assets of all of our enemies in a now highly unliquid state. After all, we froze their assets, didn't we? What else is there to do?

The answer is that there is a great deal more to do, and actually a great deal more is being done, in the use of the freezing control powers as an instrument of dynamic economic warfare against the Axis. In 1914-18, when war was still essentially a struggle of armies between fixed lines, it was generally possible to control enemy trade and commercial transactions adequately by means of simple immobilization. Under the impact of total warfare between great groups of nations fighting for their existence, however, the situation has changed drastically. Today, on the economic front no less than on the military front, we are engaged in a fluid war, a war of movement, and the idea that we can win the economic war simply by attempting to keep what we have is as out of date as its military counterpart, the Maginot Line. To push the freezing analogy a bit further, the controls currently being exercised by and through Foreign Funds Control, far from being merely a question of freezing or not freezing, range all the way from a slight temporary chilling through a good case of frostbite, to solid ice, and back again, if need be. Furthermore, a transaction which may be completely prohibited, i.e., "frozen," under one set of circumstances may be permitted, or even directed, under slightly differing conditions. Obviously, therefore, the administration of the freezing control system, which covers foreign-owned or foreign-controlled assets of all sorts valued roughly at seven billion dollars, presents highly challenging problems to the public administrator. It is the purpose of this article to discuss some of these problems and indicate some of the ways in which they are being met at the present time.

Background of the Freezing Control

IT HAS frequently been observed that it seems to be the fate of the democracies always to let their adversaries strike first. If this was true in the military sphere at Pearl Harbor, it was certainly no less true in the economic sphere during the decade of the 1930's. Accustomed as we were to thinking of trade and commerce as essentially peaceful pursuits, we were among the last to realize the full implications of the totalitarian economic idea. As a consequence the outbreak of total economic warfare found us on a strange battlefield, armed only with new and unfamiliar weapons. Fortunately we are learning rapidly.

The freezing control was invoked first in

relation to Norway and Denmark on April 10, 1940, two days after those countries were overrun by the invading Nazis. At that time the President, by executive order, prohibited all transactions involving Norwegian or Danish assets in this country except as authorized by the Secretary of the Treasury. This order meant that no such transactions could be engaged in except under license from the Treasury Department. It also meant the beginning of a large and complex administrative job for Foreign Funds Control.

The operation of the basic freezing order can best be illustrated by a simple example. Let us assume, for instance, that an exporter in the United States had shipped some merchandise to Norway a month before the invasion by the Nazis. Under normal circumstances the Norwegian buyer would, on receipt of the merchandise, order a Norwegian bank to make payment, and the Norwegian bank would in turn arrange for an American bank to pay the exporter here, following which the Norwegian bank's account here would be debited accordingly. It is at this point that the freezing control comes into play, since when the freezing order became effective vis-à-vis Norway, the American bank was immediately prohibited from making any payment from the account of any Norwegian bank here without a Treasury license. And in order to obtain such a license application had to be made to Foreign Funds Control, including the submission of all relevant facts concerning the nature and beneficiaries of the transaction. On Foreign Funds Control was thus placed the responsibility for examining proposed payments from such "blocked" or "frozen" accounts to ascertain and evaluate the purpose for which the funds were proposed to be released.

In the example described, where the funds were to be used to pay an American exporter for goods sold to Norway in good faith prior to the invasion, the release of the funds would have been permitted and payment allowed. On the other hand, if someone were currently trying to get a million dollars out of a blocked account to send to Argentina to finance activities that would result in the strengthening of Axis sympathizers, the application would be denied and the transfer of funds could not be effected.

Following the application of the freezing controls to Norway and Denmark in April, 1940, the controls were successively extended during the summer and fall of that year to cover the assets of the Netherlands, Belgium, France, and the Baltic and Balkan states. Even at that late date, however, the principal motive was largely a protective one. As each country was invaded or dominated by the Nazis, the necessity for keeping the American assets of its citizens out of the hands of the invaders became more urgent. The freezing control accomplished this objective by prohibiting transfers involving the property concerned except under Treasury license. As a result the assets here were protected, and by means of a similar control over the importation of securities and other valuables the Axis was likewise prevented from realizing upon large amounts of properties looted from the invaded countries. It is interesting to note that this form of protection was not limited to physical properties, as demonstrated by the case of the Belgian refugee who came personally to the Treasury Department to express his *gratitude* for the freezing of his funds, since if they had not been frozen he would probably have been held in a concentration camp. Since it was beyond his power to release his funds, he was given his freedom.

With the deepening of the international crisis in 1941, however, it became apparent that a freezing control limited to protective efforts was not enough. In June, 1941, following further aggressions in Europe and in the Orient, the controls were extended to Germany, Italy, and the rest of continental Europe, and shortly thereafter to Japan. With this step, the emphasis upon protection gave way to more positive participation in aggressive economic warfare of the sort that the Axis had been covertly waging.

Scope and Purpose of the Control

THE freezing control job is not a small one. The estimated total of seven billion dollars in foreign-owned or controlled assets in this country includes properties of all sorts in which any of a total of thirty-five different foreign countries or their nations have an interest. Among the thirty-five nations are Portugal, Spain, Sweden, Switzerland, and China, as well as enemy and occupied countries. Included are not only bank deposits, gold, bullion, currency, and securities, but also a great number of going business enterprises, many varieties of saleable merchandise, and other forms of property. The end result is that all financial, commercial, and trade transactions in which any of the thirty-five listed countries or their nationals have an interest are subject to the freezing controls, whether such transactions are purely domestic to this country or involve foreign trade or exchange. Furthermore, the controls are not restricted to the regulation of banking and financial transactions but by their very nature pertain to any designated foreign property interest in the United States, from common stock to livestock.

Stated in its broadest terms, then, the freezing control system as it now stands was designed to provide a veto power over any transaction of any sort involving foreign property interests which might prejudice or handicap the war effort of the United States. Somewhat more specifically, the objectives of the freezing control may be formulated as follows:

(1) to cut off all financial and commercial transactions with the Axis powers and nations dominated by them;

(2) to cut off financial and commercial transactions with other nations outside the Western Hemisphere when such transactions would be of benefit to the Axis powers;

(3) to cut off financial and commercial transactions among the American republics when such transactions would be of benefit to the Axis powers;

(4) to regulate the international movement of securities and currencies in order that such movement shall not benefit the Axis powers;

(5) to eliminate all financial and commercial activity within the United States which is deemed inimical to the defense of the Western Hemisphere.

The administrative problem presented was how to organize the freezing control system so as to move toward these objectives as rapidly and effectively as possible.

Development of Organization

PERHAPS the most prominent single characteristic of the freezing control—at least for purposes of administrative organization—is the breadth of its applicability. Initiated as an emergency measure, it cuts across all departmental and organizational lines, ferreting out foreign property interests wherever they may be found for the purposes of immobilizing them or adapting them to our own war effort. One of the categorical imperatives from the beginning, therefore, has been the necessity for the maintenance of close cooperative relationships with other government agencies.

Particularly close liaison has been maintained from the start with the State Department and the Department of Justice. In recognition of the relationships between the operations of the freezing control and the work of these two departments, a special interdepartmental committee was established as one of the first steps toward organization. This committee, consisting of one representative from each of the three departments, with the Treasury representative as chairman, laid down the first basic principles for the operation of Foreign Funds Control and charted the course which has been followed, in general, ever since. Other interdepartmental groups have been consulted frequently on policy questions within their respective spheres. Individual agencies with which particularly close working relationships have been developed include the Office of Censorship on matters of trade and financial censorship, the Board of Economic

Warfare on export controls, the War Production Board on the diversion of foreign-owned goods to our own war production, the U. S. Maritime Commission on the control of foreign-owned ships and shipping, the Securities and Exchange Commission on the transfer of securities, and the War and Navy Departments on matters of military and naval intelligence.

Special mention should be made of the working relationships that have been developed with the recently established Office of Alien Property Custodian. By the terms of Executive Orders 9095 and 9193 of March 11 and July 6, 1942, respectively, the Alien Property Custodian has been assigned important responsibilities in the control of foreign-owned patents and certain types of foreign-owned property physically located in this country, particularly the property of business enterprises owned or controlled by nationals of the six countries with which the United States is at war. In accordance with these responsibilities the Alien Property Custodian has, during recent months, begun vesting the ownership of substantial amounts of enemy-owned property in the government, thus permitting the freezing regulations to be lifted with respect to the use of such property. In general, a coordinated approach to the problem has been worked out jointly whereby the Alien Property Custodian concentrates upon the vesting and management of the physical properties of the enemy countries, whereas the freezing control regulations are applied to all properties of neutral and occupied countries and to all financial or commercial transactions affecting any foreign interest, either friendly or belligerent. Continued close cooperation in the work of Foreign Funds Control and the Alien Property Custodian in such closely related spheres of activity is, of course, a *sine qua non*.

Close working relationships have also been established within the Treasury Department proper in cognizance of the implications of the freezing control system for so many other aspects of domestic and international trade and finance. A large staff of lawyers under an assistant general counsel of the Treasury is engaged full time on legal problems of the freezing control. Professional guidance and assistance from specialists in the economics of international finance are provided by the Division of Monetary Research. Immediate contact with customs officials at every port of entry in the country is available through the Bureau of Customs, while the services of trained special investigators are provided as necessary through the Treasury investigative services.

Despite the availability of the vast administrative resources of the Treasury Department, it became apparent very early that the day-to-day operations of the freezing control system could not be handled in Washington. With fifteen thousand banks in the United States engaging in thousands of transactions daily which were likely to be affected by the freezing regulations, the problem was clearly too overwhelming to tackle from any one spot. What was needed was a going organization on a nation-wide scale with continuous personal contact with all the banks in the country, so that any significant development on the critical international scene could immediately be translated into positive action on the economic warfare front at home.

The answer to this problem was found in the development of cooperative working relationships with an organization which already had exactly such operating facilities at hand—the Federal Reserve System. As a result of this cooperative arrangement, the Federal Reserve Banks in each of the twelve Federal Reserve Districts act as field offices in the administration of the freezing control. Since each of these banks maintains direct and immediate contact with the banks and other financial institutions in its Federal Reserve District, the transmission of instructions and policy interpretations from Foreign Funds Control to the entire banking community is greatly facilitated. Similarly, Foreign Funds Control is able by means of this arrangement to keep closely in touch

with any local or regional problems that develop as a result of the application of the controls, so that any necessary adjustments may be made rapidly and effectively.

The importance of the services of the Federal Reserve Banks as intermediaries between Foreign Funds Control and the nation's fifteen thousand commercial banks cannot be overemphasized. In contrast to so many emergency agencies which have been severely hampered by the growing pains of rapid nation-wide organization, Foreign Funds Control, merely by adapting existing organizational structure to new uses, has been able to make its controls effective from the date of their inception. The size of the responsibility being carried by the Federal Reserve Banks is indicated by the fact that in the Federal Reserve Bank of New York alone there are more than three hundred persons engaged exclusively on Foreign Funds Control work, while collectively the twelve Federal Reserve Banks are now taking final action on roughly 80 per cent of the license applications being submitted, leaving only 20 per cent (so-called "policy" cases) to be referred to Washington. The administrative advantages are incalculable in flexibility, speed, and ease of delegation of authority to act.

Another major administrative problem faced by Foreign Funds Control arose out of the very breadth and inclusiveness of the basic freezing order. By the terms of this order many transactions were subject to Treasury supervision which were in no way inimical to the national welfare. A strict application of the licensing requirement to each such transaction would have restricted legitimate transactions unnecessarily and defeated the purpose of the order. Consequently one of the first steps in the establishment of the control system was the issuance of certain general licenses, which, under appropriate safeguards, permit the carrying out of certain broad types of transactions without the necessity of specific licenses for each. For example, one such general license permits, under certain conditions, limited remittances for living expenses to United States citizens who are within blocked (frozen) countries other than enemy countries. Another establishes a "generally licensed trade area" within which extensive trade privileges are granted to our allies and other friendly countries. While not involving any relaxation of the controls, these general licenses do permit legitimate trade which is in the interest of the United Nations, subject always to the necessary safeguards.

It is the words "subject to the necessary safeguards" that provide the key to the effectiveness of the Foreign Funds Control as a weapon of aggressive economic warfare. Given the power and responsibility of reviewing and licensing, or refusing to license, transactions involving seven billion dollars' worth of foreign-owned or controlled assets, the Treasury was not slow to use this power positively by making its licenses conditional upon economic or commercial activity in consonance with the national interest. As a result, this control, through the process of helping friendly interests and hamstringing the Axis, has been one of the most effective of all economic weapons to date in strengthening the economies of the United Nations and isolating the aggressors.

A simple example will illustrate. There are in the United States approximately three thousand business firms with substantial ownership or control in countries subject to the freezing order. Many of these firms are innocuous enough, with no inclination toward activity contrary to the national interest. On the other hand, there are also firms such as the General Aniline and Film Corporation, which was until recently an American subsidiary of I. G. Farbenindustrie, the German dye and chemical trust, and which has been a center of Axis propaganda and subversive activity in this country. Between these two extremes there are firms representing all degrees of foreign control of American industrial interests to which varying degrees of control must necessarily be extended by this government in

time of war. From each of these three thousand firms Foreign Funds Control has obtained detailed and authenticated information concerning its organization, major personnel, capital structure, operating relationships, and principal customers. This information has been the basis for a wide variety of corrective measures utilizing conditional licenses under the freezing order, including such measures as the requirement of detailed periodic reports, actual supervision of day-to-day operations, discharge of key personnel, complete corporate reorganizations, forced liquidation, or, as in the case of General Aniline and Film, the ultimate vesting of ownership by the Alien Property Custodian. A more potent and adaptable device for controlling hostile economic influence it would be difficult to imagine.

Present Organization

THE organization structure of Foreign Funds Control has been shaped largely by the several broad categories of problems that have been faced to date. In point of time, the first major problem was that of reviewing and acting upon applications for licenses to effect transactions subject to the Control, and for the first year or so this work required practically the full attention of all members of the staff. However, as the major policy questions with respect to licensing were settled and the responsibility for the bulk of the licensing function was delegated to the Federal Reserve Banks, it became clear that relatively more attention would have to be given to enforcement activities if the Control was to reach its full effectiveness. At that time an enforcement division was established on a level coordinate with the licensing division. About that time also the need for investigative work outside of Washington became apparent, and a field investigative staff was established with principal stations in New York, Chicago, and San Francisco responsible to the chief of the staff in Washington. More recent developments include the administrative services division, which is responsible for all phases of the administrative management and accounting work of the Control, and the office of the assistant to the director, which deals with a multitude of special problems involving over-all planning and intergovernmental relationships.

The work of the licensing division is carried on through three major operating sections. One of these, the business and finance section, is concerned principally with the issuance and periodic review of operating licenses for the three thousand business enterprises which are subject to Foreign Funds Control as well as the review of applications for licenses involving the settlement of personal accounts, remittances abroad, and other miscellaneous transactions. The trade section is responsible for licensing all transactions involving trade and commerce with countries subject to the Control, with special emphasis upon the diversion of strategic war materials to our own production and the "blacklist" problem in South America. This section works in close cooperation with the export control division of the Board of Economic Warfare for the purpose of maintaining coordination of licensing policy on trade transactions. The securities and currency section reviews all applications for licenses involving the transfer of securities or the importation of currency into this country. In general this licensing is so conducted as to prevent Axis countries from disposing of looted securities or currency in any part of the Western Hemisphere.

The enforcement division is responsible generally for searching out and investigating activities which appear to be in violation of the objectives of the freezing order and for recommending appropriate administrative sanctions or legal action to prevent or punish such violations. One section of this division, the dispatch analysis section, analyzes dispatches and other material submitted by the various government intelligence agencies and sifts the information obtained thereby to determine the necessity or advisability of

further action. The compliance review section is responsible for making preliminary investigations of specific firms and individuals suspected of violating the order and also acts as a clearinghouse for all requests for field investigations by the field investigative staff. The special studies section makes more thorough and comprehensive studies of large corporations or industrial combinations for the purpose of determining whether their operations are being effectively controlled and, if not, what additional controls might be applied. A fourth section, the censorship relations section, is responsible for liaison relationships with the Office of Censorship on matters of financial and commercial censorship and also provides general guidance for certain Foreign Funds Control representatives who have been stationed at several of the larger censorship stations to advise and assist the Office of Censorship on such matters.

The office of the assistant to the director is generally responsible for the planning and developmental phases of the freezing control program as well as certain conference and liaison relationships with the general public and with representatives of other governmental bodies. One section of this office, the program planning section, is concerned largely with formulating plans for the more thorough application of the freezing controls and with drafting the necessary orders and regulations to put such plans into effect. Another section, known as inter-American controls, is responsible specifically for the development of more extensive cooperative relationships with the corresponding freezing controls in the Latin American republics. A third section handles all cases in which foreign governments are parties at interest, and two other sections are responsible for conferences with representatives of the public and for correspondence.

The administrative services division provides all these major units with the necessary administrative management services and advises generally on problems of organization and operating relationships. In this division, the personnel office, the budget and planning office, and the office service section perform the functions generally associated with their titles. The machine operations section operates a comprehensive punch-card machine tabulation service to provide up-to-the-minute data on all types of transactions being licensed as well as other types of administrative action being taken. The property accounts office is responsible for maintaining records of several types of transactions out of which property claims might conceivably arise at a later date and also provides a general advisory service to the rest of the organization on accounting problems faced in the operation of the Foreign Funds Control.

Examples of the Control in Action

ONE of the most difficult and delicate problems posed by total war on the economic front has been that of fighting and eradicating Axis economic influences in Central and South America. We now know that for many years the Axis has been using every available weapon to weaken the military potential of the United States and the Latin American republics. By cartel agreements restricting production, by the control of strategic patent interests, by the use of dummy corporations, by carefully directed threats and bribery, and by every other means at their disposal, the Nazi and Fascist parties have sought to penetrate and undermine the governments and economic institutions of the Western Hemisphere. Belated recognition of the seriousness of this threat came at the Havana Conference of the American Republics in July, 1940, when it was agreed that each of the governments represented should adopt "all necessary measures to prevent and suppress any activities directed or inspired by foreign governments or foreign nationals which might subvert the democratic institutions of any of the Republics or foment disorder in their internal political life." In the months immediately following the Conference it became increasinly clear that the freezing control was one of

the most potent of the "necessary measures."

The freezing powers were called into action on this front on July 17, 1941, when President Roosevelt authorized the issuance of "The Proclaimed List of Certain Blocked Nationals," listing eighteen hundred individuals and firms in Central and South America whose activities were inimical to the defense of this hemisphere. By September 1, 1942, the list included ten thousand individuals and firms. Simultaneously with the issuance of this "blacklist," the Treasury took action under the freezing order to prohibit any United States person or firm from engaging in any transaction with a person or firm on the Proclaimed List without a specific license from Foreign Funds Control. By means of this "selective freezing," as contrasted with "general freezing" based upon national boundaries, the freezing control has dealt one of the most damaging blows yet delivered to the Nazi network in Latin America.

Furthermore, the selective freezing device is designed to be applied wherever Axis interests penetrate, irrespective of geography. The Proclaimed List, for example, although originally including only the Latin American republics, has been extended to Portugal, Spain, Switzerland, Sweden, and other European countries for the purpose of preventing any transactions with Axis agents or sympathizers in these countries. Indeed, the authorization contained in the basic freezing order is broad enough to cover, if necessary, any person in any part of the world who appears to be acting directly or indirectly for the benefit of any of the "frozen" countries or their nationals. Under this power even American citizens within the United States can be and have been "frozen" when they have been discovered to be carrying on commercial transactions of benefit to the Axis powers. An example is Werner von Clemm, an American citizen recently sentenced to two years' imprisonment and a fine of $10,000. He and his brother, an official in the German government, were participating in a scheme to import and sell in the United States "frozen" diamonds believed to have been looted by the German Army in Belgium. The technique of *ad hoc* blocking of accounts must be very judiciously employed, but it is reassuring to know that the democracies have at their command a weapon strong and flexible enough to cope with Axis economic influence whenever and wherever it appears.

Another positive application of the freezing powers to the necessities of economic warfare lies in the use of "directive" licenses. This technique was developed shortly after Pearl Harbor as a means of clearing warehouses, railroad sidings, and wharves of goods originally destined for foreign countries but which the outbreak of war had left stranded with no possibility of reaching their consignees. Obviously the goods could not be left to clog the channels of trade, particularly in view of the tremendously increased demands upon transportation and shipping facilities. At the same time the conventional legal processes either were not adaptable to the situation or could not function rapidly enough to meet the war emergency.

Faced with this problem, Foreign Funds Control, using the powers delegated to the Treasury Department under the First War Powers Act, devised a system of directive licensing whereby such goods were directed to be sold and the proceeds placed in accounts blocked under the freezing control. By this means, millions of dollars' worth of war materials which had been stopped in transit to foreign countries were diverted to our own war effort.

Much of the success of this phase of the freezing control's operations can be traced to the comprehensive census of foreign-owned property taken late in 1941. This census, the first of its kind ever conducted in this country, covered every conceivable type of foreign-owned property in the United States, irrespective of the nationality or status of the owner. The total value of the property described is about 14 billion dollars, of which roughly 750 million was in strategic and critical war materials, most of which is now

being used for our own war purposes. The census reports also revealed much detailed information concerning the financial activities of suspected violators of the freezing orders and have thus provided a basis for greatly increasing the effectiveness of enforcement measures.

The adaptability of the freezing control to still another of the vicissitudes of total war is indicated by its part in the application of the "scorched earth" policy in the Philippines at the time of the Japanese occupation. When it became clear that the Philippines could not be held, a Treasury general ruling was issued extending the freezing control to cover all Philippine paper currency and all Philippine securities, thus prohibiting transactions involving either without a Foreign Funds Control license. This measure, in conjunction with the delegation of additional emergency powers to the High Commissioner of the Philippines under the First War Powers Act, prevented the invading Japanese from realizing on many millions of securities and currency which it was impossible to destroy or remove from the islands.

Strangely enough, also, the freezing control powers can work, and have worked, equally well in reverse when the necessities of the economic front require it. Perhaps the most dramatic illustration is the freezing program as applied to China. In this instance, on the same day that the freezing control was extended to Japan, which was soon to become our enemy, it was also applied to China, which is our ally. The difference was that the action with respect to China was a "friendly freeze," undertaken at the specific request of Generalissimo Chiang Kai-shek and with the full cooperation of the Chinese government. The fundamental purposes of the action were to protect Chinese assets controlled by persons in the occupied areas from being looted by the invading Japanese and to prevent the Japanese from using the occupied areas as a loophole for transactions between Japan and the United States which the Japanese were unable to effect directly. Consequently in this instance the freezing control assisted in providing an effective barrier to Japanese economic influence in the Orient and a corresponding economic support for the Chinese government.

By another odd twist of circumstances, the freezing powers have even served as a basis for illustrating to the Japanese the way in which a democracy handles a difficult minority problem—in this case the Japanese themselves. The setting in this instance was the Pacific Coast of the United States in February and March, 1942, when the U. S. Army had decided that all persons of Japanese origin must be evacuated from the immediate coastal area as well as certain strategic inland regions. The difficulty arose in connection with the property of more than a hundred thousand Japanese, much of which immediately became the target for sharpers and profiteers. The War Department, faced with the problem of protecting the Japanese to the fullest extent possible from the economic hardships of evacuation, called upon the Treasury to assist. A number of Foreign Funds Control representatives were dispatched at once by Army transport to the West Coast, where Evacuee Property Departments of the Federal Reserve Bank of San Francisco were set up in more than a hundred cities to advise and assist the evacuating Japanese in the liquidation of their properties, and, in cases where necessary and desirable, to take powers of attorney and invoke a "friendly freeze" of their assets to protect them against double-dealing and coercion. There is good reason to believe that these efforts were of very considerable assistance in alleviating social distress during what was at best a delicate period of adjustment for all concerned.

Internal Problems

As might be expected, the broad scope of operation of Foreign Funds Control and the imperative need for flexibility in organizational methods have resulted in several difficult problems of internal administrative

management. One such problem stems from the volume of applications for licenses and the speed with which they must be analyzed and cleared. Despite the strenuous efforts toward delegation of the licensing function to the twelve Federal Reserve Banks, the number of license applications being reviewed in Washington is still very sizeable. Out of a total of nearly twenty thousand applications received throughout the freezing control system during the month of July, 1942, for example, approximately 4,500 cases were referred to the national office for action as involving policy matters or otherwise demanding specialized treatment. In view of the size and significance of the transactions proposed, the internal flow of these applications could scarcely be left to chance. What was needed was a plan for recording and controlling all movements of all documents so that each could be located at a moment's notice, if necessary, and so that there would be definite assurances against misplacement or delay.

The solution evolved is based upon the use of numbered strips of detachable coupons, known internally as "control strips." As each set of documents pertaining to a particular case is received, a control strip is attached to it which charts the course of the case through the reviewing units concerned, depending upon the nature of the transaction involved. As the case passes through each unit, the last coupon on the strip is removed and sent to the central control desk for collating. It is a simple operation, then, either manually or by punch-card machine, to indicate the exact status of each case as of any particular time, the course of reviewing which any particular case has undergone, and the length of time involved in each step of the process.

Another ticklish internal problem was posed by the fact that modern economic warfare deals not only with "blacklists" and "white lists" but with lists of all shades of gray. The Fascists are nothing if not ingenious, and the Western Hemisphere is honeycombed with dummy firms and "cloaks" for use as commercial "fronts" for Axis penetration. Such "fronts" are frequently old established firms which have sold their names or trademarks for exploitation by Nazi agents, frequently without realizing the full implications of their actions. As various bits of information on such firms indicating possible Axis ties are obtained by our missions or our intelligence services, it becomes essential that all available data be pieced together rapidly at some central source so as to keep up with the process of shading from "white" to "gray" to "black."

The punch-card accounting machine is the clue to the solution to this problem in Foreign Funds Control. For every significant name or firm that comes to the attention of Foreign Funds Control a tabulating card is punched, recording the most important information available. Then on every further occasion when additional information is discovered another card is punched, coding all significant information from the new document or other source concerned. All of these punch cards are then segregated in groups correlated with the original name card so that at any time it is possible, merely by machine analysis of the cards, to review all of the data concerning any individual or firm which might have a bearing upon its current shade of gray. By means of this central index it is possible to "screen" applications against available information and to review data for violations much faster than would otherwise be feasible.

The Future of Freezing Controls

As an emergency measure instituted as a partial answer to the problems posed by totalitarian economic aggression, the basic freezing order is essentially a product of war. So long as hostilities go on, there is little doubt that the freezing control will continue to serve as one of the most effective weapons in the economic armament of the United Nations. Its flexibility, its speed of action, and its ability to penetrate wherever the Nazi network seeks advantage combine to

create a new and potent instrument in international economic and commercial relationships. There is no denying the strength and significance of the freezing control in time of war, but what of the peace and the postwar settlement?

It is beyond the scope of this study to consider the pros and cons of continued regulation of international finance in the postwar period. Nor is it possible at this time to prophesy what the place of such controls in the future is to be. It is significant, however, that one writer on the subject is convinced that "the release of the funds is vastly more complicated than was commonly supposed at the time of their freezing" and argues cogently for maintaining similar controls after the war in order to guarantee that the funds will be used in a planned reconstruction of world finance along liberal lines.[1] One conclusion alone seems clearly to be justified at present—that the postwar position of the United States as the trustee of a very large portion of international funds will impose upon this country a correspondingly heavy responsibility for enlightened leadership at the conference table.

[1] Judd Polk, "The Future of Frozen Foreign Funds," 32 *American Economic Review* 255-71 (1942). See also same author, "Freezing Dollars Against the Axis," 20 *Foreign Affairs* 113-30 (Oct. 1941).

Certification of Collective Bargaining Representatives

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THE National Labor Relations Board is authorized to investigate two kinds of labor relations problems. One consists of those acts and policies of employers which the law defines as "unfair labor practices." Upon finding that an employer has been engaged in such practices, the Board is empowered to order him to cease and desist. The other type of situation over which the Board has jurisdiction is the so-called representation dispute, involving a question as to whether a labor organization represents a majority of the employees for whom it seeks to bargain. Under the act it is not an unfair labor practice for an employer to refuse to bargain with representatives of less than a majority of the employees in an appropriate unit. The present article proposes to describe some of the issues involved and the methods developed by the Board in handling representation disputes.

Representation disputes arise when two or more labor organizations claim the right to bargain for the employees, when an employer questions the majority claimed by the union, or when there is a difference of opinion regarding the unit suggested by the union for purposes of collective bargaining. The act provides that when a question concerning representation arises, the Board may investigate the dispute, ascertain the choice of the majority by an election or other suitable method, and certify to the parties the name of the duly authorized representative. Certification entitles the representative to be the sole agent of employees for purposes of collective bargaining. While individuals may act as representatives, with rare exceptions representation is vested in a labor organization.

Certification

The petition for certification. When a union committee or business agent approaches a factory manager or superintendent with a request to bargain on behalf of the employees, the latter is likely to say: "How do I know you represent our employees?" The answer may be: "We have membership cards or authorizations of 85 per cent." "Well," says the employer or factory manager, "I don't know that; get the Labor Board to certify you." In order to get a case before the Board, the employer must raise the question of representation. He can do this by questioning the union's majority or by objecting to the unit claimed by the union, or both; standing by itself, this action will not be considered an unfair labor practice by the Board.

The union representatives then go to the regional office of the Board and, on forms furnished by the latter, file a petition for certification. The petition sets forth the names of the parties, the number of employees involved, the unit for which the union seeks exclusive bargaining rights, and the number of employees it represents within that unit.

Normally it is customary for union officials to file petitions. When two rival labor organizations are competing, however, it may happen that for a period of months neither union feels confident enough of vic-

tory to file a petition. For several years the Board refused to permit any person not an employee or representing an organization of employees to file a petition to resolve such a situation. The reason for this position was that employers might, in conjunction with a campaign of coercion of union members, file petitions at the beginning of an organization drive before the union could possibly win. This objection was finally met in July, 1939, when the Board revised its rules and regulations (Article III, section 3) to permit an employer to file a petition, "provided that the Board shall not direct an investigation on a petition filed by an employer unless it appears to the Board that two or more labor organizations have presented to the employer conflicting claims that each represents a majority of the employees in the bargaining unit or units claimed to be appropriate." This proviso appears to have forestalled employer attempts to frustrate union organization prematurely. For example, in a General Motors case (14 NLRB 441, 1939), the Board denied the employer's petition partly because only *one* union had requested to bargain for the majority. Of 4,334 representation cases received from July, 1940, to June, 1941, only 73 were filed by employers. The previous year 74 were filed.

Informal certification. After the petition is filed, it is docketed, given a case number, and assigned by the regional director to a field examiner. Upon investigation, checking the facts alleged in the petition and discovering the situation outlined above, the examiner may say to the factory employer: "Why do you insist on a certification? That would require a hearing and may take a long time. Can't the matter be settled informally by agreement?" The manager replies: "Well, we want to know *officially* whether the union represents our employees." The examiner then arranges a joint conference and advises the parties somewhat as follows: "Why don't you agree upon a method of determining whether the union represents a majority? The regional director will check the union's membership cards or records of dues payments against the employer's pay roll, or hold an election if you say so, and get the whole matter settled in a few days." If the employer and the union agree, what is called a consent election or consent check of cards against the pay roll is arranged. In either event, the field examiner draws up for the parties' signatures an agreement providing the method of determination, defining the eligibility of voters, fixing the time and place, and establishing a procedure for disposing of protests. When this document is signed by the parties and approved by the regional director, the field examiner makes the check of union authorizations against the pay roll or conducts the election, and the regional director certifies the results to the parties by letter and closes the case.

More of the Board's representation cases are disposed of through this procedure than in any other manner. In the fiscal year 1941, of 3,698 "R" (representation) cases that were closed, 1,984 or 53.6 per cent were settled by such consent agreements or by direct agreement between employer and union. These cases are not the ones in which controversial problems come up raising substantive issues of administrative policy.

The requirement of showing prior to formal hearing. Suppose the employer insists on a formal certification? The field examiner, after the union has filed its petition, still has to interview the parties, secure the union's signed authorizations, and check them against the signatures or names on the employer's pay roll. This is done to establish the fact that the union can make a prima facie case in support of its claim to represent a majority. The examiner then prepares a request by the regional director that a hearing be authorized; the request is sent to Washington, setting forth the names of the parties, the facts alleged in the petition, the results of the investigation, and a summary of the issues—in this case, the employer's desire for a certification by the Board. The Board, before authorizing a hearing, re-

quires the union to present to the regional office authorizations amounting to approximately 30 per cent of the number of eligible voters as estimated by the parties and the field examiner. If the field investigation discloses this evidence to the Board's satisfaction, a hearing is ordered, at which the facts are established upon a stenographic record before a trial examiner who reports to the Board. The trial examiner may or may not be one of the headquarters' staff of trial examiners. Since 1940 the Board has adopted the practice of permitting the chief trial examiner to designate a member of the regional office staff to act in this capacity in representation cases. The Board then issues a "Decision and Direction of Election," directing the regional director to hold an election. After receiving the report of the results of the election, the Board issues its certification.

The 30 per cent requirement is only an approximate one and is resorted to mainly when there is no history of collective bargaining in the plant. But when a union is already established which has a collective bargaining agreement with the employer, the Board is more strict in requiring the petitioning union to show some probability it represents a majority. In a recent case, upon a showing by cards of 19 employees out of 58 (33 per cent), the Board dismissed a CIO petition when the AFL union had a contract and showed by affidavit a membership of 54 out of 58.[1] The Board has tended more and more during the past two years to compel unions to prove substantial evidence of membership before it will order elections. This trend has come about as a result of the Board's experience with two types of cases: one, where unions file petitions on insufficient showing and then lose elections by large majorities; and, two, cases in which either an AFL or a CIO union files a petition to win exclusive bargaining rights from another organization which already has an agreement with the employer. Thus a union, as well as the employer, has to prove the existence of a question of representation before a hearing and election will be ordered.

Is an existing agreement a bar to an election? Although the Board handles more representation cases in which only one union is involved than where there are two or three (1,924 out of 2,566 elections and pay roll checks conducted during the fiscal year 1941 were one-union affairs), the most vexing problems arise out of petitions filed by a union when another union has a contract covering some or all of the workers that the petitioning union claims to represent. The Board's willingness to entertain petitions in such cases has come to turn on two factors: the provisions of the contract with respect to union membership and the duration of the contract. If the existing contract covers only members of the contracting union, the Board will proceed at any time upon proper showing to a hearing and decision on the case. This practice is due to the fact that such an agreement is extralegal; it does not fix the bargaining unit and does not provide for exclusive representation for all employees in a definite unit. When the existing contract provides for exclusive bargaining rights, however, the Board will normally refuse to order an election unless approximately a year has elapsed since the signing of the agreement. Under recent war conditions the Board has refused to order an election until a two-year agreement has expired, where the custom of such contracts was established (*Owens-Illinois Pacific Coast Co.*, 36 NLRB 990, 1941). Normally, however, the Board will proceed on a petition filed during the life of an annual agreement. The Board has always had a strong preference for what it calls "stable" collective bargaining relationships and has felt that the employees by entering into a contract should be considered to have bound themselves to observe it for at least a year. Nowhere is this feeling more evident than in the Board's distaste for upsetting existing contracts by holding elections on behalf of rival organizations or

[1] *Commander Larrabee Milling Company*, 41 NLRB, No. 173 (1942). See also the Adams and Westlake Co. cases, 30 NLRB 1222 and 37 NLRB 829 (1941).

for dissentient local unions whose members would like to change their national affiliation because they are temporarily disappointed with the results of contract negotiations.

The appropriate unit. In contrast to political elections, where the district is fixed by statute, section 9 (b) of the National Labor Relations Act specifically requires the Board to decide *in each case* the question of the unit appropriate for purposes of collective bargaining. This duty is the heart of the controversy over the Board's administrative function with respect to representation questions, not only because of its influence over the outcome of the election but also because the power to tell unions for whom they may or may not bargain in a given case may determine the subsequent history of collective bargaining with the company. In any given case, the more specific factors affecting the decision as to the appropriate unit may be the overlapping definitions of membership of different unions, the patterns of collective bargaining in particular plants or industries, the homogeneity of the occupations and skills of the employees involved, the desires of the employees concerned, and the relationship between the unit proposed by the union and the employer's administrative operation of his business or plant. The act provides that "the Board shall decide in each case whether . . . the unit . . . shall be the employer unit, craft unit, plant unit, or subdivision thereof," and the Supreme Court has held that this provision gives the Board a discretion in the exercise of which the courts may not substitute their judgment.[1]

Considering all the varying situations in the hundreds of representation cases that are dealt with each year, it is not surprising to find the Board insisting that each case is decided separately on the facts or merits. Nevertheless, certain broad trends of policy can be discerned in the Board's treatment of the unit question. In the first place, in fixing the unit the Board gives great weight to the previous practice of union-employer relationships as evidenced by past or existing collective bargaining agreements, and, where practicable, follows such established practice or custom as proof of appropriateness.[2] This test enables the Board to establish appropriate units, ranging in scope from those requested by narrow craft unions for a single occupation or skill, such as the die sinkers or pattern makers, to plant-wide and even employer-wide units that include all production and maintenance employees. The Board has used this test to sanction the regional agreements in the coal industry, and, in a case involving the Pacific Coast longshoremen, the Board established a unit covering all the ports on the entire coast because of an established practice of collective bargaining on the part of the shipowners in that area.

When there is no history of collective bargaining or contract in existence defining the unit of representation and there is only one labor organization requesting certification, the Board will usually find the unit requested by the union to be appropriate, *provided* that the classification of employees for which the union seeks certification affords a reasonable and effective basis for collective bargaining. In other words, where no conflict between the desires of employees or unions is involved, the Board will give the greatest weight to the contention of the union, thereby seeking to give meaning to the act's provision that "employees shall have the right of self-organization," and to its declared purpose to encourage "the practice and procedure of collective bargaining." The qualification, it is believed, will protect the employer from arbitrary demands for bargaining units composed of half departments or combinations of different classifications of work units which have no reference to the employer's organization of his busi-

[1] *American Federation of Labor* v. *National Labor Relations Board*, 308 U.S. 401 (1940).

[2] On this question of policy, the three-way split among the Board members in the American Can Company case, 15 NLRB 1252 (1939), is of great interest as the opinions reveal alternatives of discretion in breaking with past and creating future precedent.

ness or possible future disputes over representation of employees.

When two or more bona fide labor organizations are in dispute as to the unit, and there is no existing contract to indicate which unit is appropriate, a different set of circumstances is involved. The most controversial type of case here involves a conflict between a craft union, such as the tool- and diemakers or the operating engineers, who seek a unit composed of employees desiring organization and representation on the basis of skill, and an industrial union which takes in all production and maintenance workers in and around the plant. In such cases, in the absence of other compelling considerations, the Board usually will order two separate ballots to be taken at the same time. The employees in the smaller unit are polled separately to determine whether they wish the craft or the industrial union to represent them, thus deciding whether they will be included in the larger unit or retain a separate craft organization. The second ballot is conducted among the remainder of the employees to choose whether or not they wish the industrially organized union to represent them. To secure a double election of this kind, a craft union must request a clearly identifiable unit, one which is reasonable and has some historical justification as an effective basis for collective bargaining.

This form of plebiscite is known as the "Globe Doctrine," taking its name from the case in which it was first announced. Since it insures an opportunity for the craft unions to split off a segment of organized strength from the solid front of a plant-wide organization, it has been bitterly opposed by industrial unions.[1]

Another unit question upon which the Board has differed with industrial unions is the so-called employer unit problem, which involves such a company as General Motors or the Chrysler Corporation with scores of widely separated plants. Here the CIO unions have demanded again and again a corporation-wide unit, contending that the proper and effective method of bargaining is with the company as a whole instead of by a series of plant-by-plant agreements. From all indications, it now appears that the Board will order elections in each plant separately to ascertain clearly the desires of the workers in each locale.[2] Thus overwhelming majorities for one union in the company taken as a whole are prevented from obscuring the fact that in particular plants the union's membership may be negligible. If, after the election, the union has demonstrated its majority in practically all the company's plants, the Board may certify it as the exclusive representative for all plants, consolidating them into a single unit. In the case in which different unions represent different plants, the Board, upon a union's request, will state to the employer that it is *not illegal* for the company to consider as a bargaining unit all those plants in which the union represents a majority. The Board's refusal to take positive action results from a disinclination to freeze as appropriate a unit (for example, 17 plants out of 36) which has no inherent appropriateness and is obviously temporary and uncertain.

Two comments may be made in summarizing the Board's handling of the unit question. First, it seems fair to say that in establishing the electoral units of industrial democracy the Board follows the policy of local self-determination by permitting the smaller units of labor organization a chance to vote for their own survival as against being swallowed up in the larger industrial units. In the exceptions to this policy, where the Board gives precedence to the principle of following the unit fixed by previous collective bargaining agreements, the assumption is made that the employees have already

[1] Cf. *Globe Machine and Stamping Co.*, 3 NLRB 294 (1937); Allis-Chalmers Mfg. Co., 4 NLRB 159, 168-75 (1937); *Report of President Philip Murray to the Fourth Constitutional Convention of the Congress of Industrial Organizations* (1941), pp. 45–46.

[2] Emily C. Brown, "The Employer Unit for Collective Bargaining in National Labor Relations Board Decisions," 50 *Journal of Political Economy* 321-56 (1942); Chrysler Corporation and Briggs Mfg. Co. cases, 13 NLRB 1303, 1326 (1939); and *Libby-Owens-Ford Glass Co.*, 31 NLRB 243 (1941).

voluntarily agreed to the appropriate bargaining unit. The second point relates to the policy of Congress in delegating discretion in this matter to an administrative body. While it may not be possible to absolve the Board of charges of arbitrariness in every one of the thousands of representation cases it has handled, the surest index that the Board has performed its function reasonably is that within neither of the great national organizations of labor is there any unanimous or consistent pressure to have Congress enact a rigid standard of appropriateness concerning the bargaining unit.

Elections

The direction of election. We have now discussed the major points on which the Board is called upon to make a formal decision in representation cases. If the Board does not dismiss a petition on the ground that no question of representation exists, it usually accompanies its decision with a direction that an election be held to determine the representatives of the majority of the employees in the unit or units found to be appropriate. An election is not always ordered because at the hearing before the trial examiner the parties may agree to a consent arrangement. In this instance the Board issues its certification on the basis of the record at the hearing and the results of the check, as in the cases of the three "Little Steel" companies—Republic Steel, Youngstown Sheet and Tube, and Inland Steel. When one of the parties indicates at the hearing that he prefers an election, however, the Board usually so orders, as in the cases of the Cudahy Packing Company, 13 NLRB 526, and Armour and Company, 13 NLRB 567 (1939). Before these two cases it was a common practice for the Board to certify on the basis of the record at the hearing, at which the sworn testimony of the voters was taken as evidence of choice of representatives.

Eligibility of voters. Two major questions may be involved in a direction of election. The first issue is the selection of a suitable pay roll to determine the eligibility of the employee voters. In order to prevent manipulation, the Board usually orders that the last pay roll immediately preceding the formal decision and direction of election be used. If there are seasonal fluctuations in employment or other unusual turnover, the parties may raise the point at the hearing, present their position, and, if possible, specify a representative pay roll. After the questions of unit and pay roll are decided, the Board usually permits all employees to vote except those who have quit, or who have been permanently laid off, or discharged for cause.

The other question, which arises less frequently, is the extremely touchy one whether strikebreakers should be allowed to vote. Section 2 (3) of the act defines an "employee" as including any individual whose work has ceased as a result of a strike or unfair labor practice and who has not obtained other regular and substantially equivalent employment. An early decision of the Board ruled that it was contrary to the purposes of the act to allow persons to vote who were hired during a strike to replace striking employees. This decision has now been clearly overruled, and the Board's present policy is that workers hired during a strike not caused by an employer's unfair labor practices are entitled to participate in the selection of bargaining representatives (*Rudolph Wurlitzer Co.*, 32 NLRB 163, 1941, overruling *A. Sartorius & Co.*, 10 NLRB 493, 1938). In other words, although the act assures a striker his status as an employee, that does not mean another man working in his place is not an employee. The point arises from a decision of the Supreme Court in the Mackay case, 304 U.S. 333 (1938), to the effect that strikers may be reinstated by order of the Board if the strike was caused by the employer's unfair labor practices.

Conduct of elections. Board directions of election are immediately sent to all parties and the regional director or directors concerned. The regional director calls the parties together and in conference, just as in

the case of a consent election, the details as to time, place, and date are worked out. Usually also the pay roll is checked over in advance so that the parties may specify by agreement the employees excluded under the terms of the Board's direction. Sample ballots and regulations concerning the election are printed or mimeographed, circulated to the parties, and posted on plant bulletin boards at least forty-eight hours in advance of the election date.

Elections are usually conducted by a regional field examiner in a convenient place at or near the plant, depending on the desires of the parties. The election ordinarily takes but one day, or a few hours, depending on the number of employees, although in such cases as the General Motors and U.S. Steel elections, involving plants all over the country, and in maritime elections dependent upon boats reaching port, more time may be required. Ballots are distributed only by Board agents at the polling place. Absentee voting was formerly permitted by mail but since the Selective Service Act, the Board has discontinued the practice. The ballots are invariably marked in secret, booths being erected or constructed at the polling place for this purpose, and are deposited personally by the voter in a locked or sealed ballot box. The union or unions and the employer furnish official observers who help check the pay roll, establish a voter's eligibility, act as challengers, watch the boxes and conduct of voters, and are present at the opening of the boxes and counting of the ballots. The employer's observers may not be company officials or supervisory employees. The results are verified in the presence of the observers and are incorporated in an election report sent by the regional director to the Board and each of the parties. Objections to the conduct of an election must be made as objections to the director's report within thirty days after its issue. If none are made, the Board issues its formal certification. Filing of objections may necessitate a hearing before the regional director and possibly an order by the Board either dismissing the objections or ordering a new election. Challenged votes become a problem for decision only when they prevent ascertainment of a majority.

As may be inferred from this procedure, the Board and its agents are committed to a policy of strict neutrality in their conduct of elections. This policy seems to contrast sharply with that of the Department of Agriculture, which cannot put its milk marketing orders and production control programs into effect until extraordinary (usually two-thirds) majorities of the farmers concerned with a given program have approved them by referendum.[1] No significant criticism of the Department's open efforts to secure as large and favorable a vote as possible in these referenda has come to this writer's attention. This is an interesting case of differing administrative interpretations of a similar legislative mandate. In both of the examples cited, the statute implicitly contemplates a favorable result in the balloting. Likewise in both cases the balloting involves a contest for power and influence among economic groups, in one case between farmers and the processor-distributors, in the other between employers and employees. The difference between the two policies of Congress is that in the referenda the issue is whether the farmers wish the administrative agency to carry out a specific regulatory program, while in the industrial elections the issue is whether the workers desire the terms and conditions of their employment to be determined by the nongovernmental processes of collective instead of individual bargaining.

Majority rule. In political elections we have become so accustomed to accepting a plurality winner that at first it seems somewhat surprising to discover that the meaning of majority has occasioned considerable controversy in the administration of industrial elections. The reason probably lies in

[1] L. V. Howard, "The Agricultural Referendum," 2 *Public Administration Review* 23-26 (1942).

the fact that workers and employers were somewhat slow to accept the basic principle of collective bargaining, namely, that the bargaining agent must be the exclusive representative of the employees in the designated unit. Originally the National Labor Relations Board refused to certify unions when they failed to receive a majority of the *eligible voters*. This policy encouraged intimidation of workers to compel them to abstain from voting. In 1937, a decision of the Supreme Court upheld practice under the Railway Labor Act and the state laws regulating political elections, namely, that *a majority of those participating in the election* shall prevail, and the NLRB shortly thereafter shifted its policy in accordance with this decision. The salutary effect of the shift has been a consistently high proportion of eligibles voting, averaging annually between 80 to 90 per cent (Table 1).

TABLE 1. NUMBER OF ELECTIONS AND EXTENT OF PARTICIPATION IN NATIONAL LABOR RELATIONS BOARD "R" CASES (1935–1942)[a]

Period [b]	Number of Elections and Pay Roll Checks	Number Eligible to Vote	Number of Valid Votes [c]	Per cent of Eligibles Voting	Per cent of Valid Votes Cast for Unions [d]
1935–36	31	9,512	7,572	80.1	(e)
1936–37	265	181,424	164,135	90.5	(e)
1937–38	1,152	394,558	343,587	86.9	82.2
1938–39	746	207,597	177,215	85.6	77.9
1939–40	1,193	595,075	532,355	89.3	81.9
1940–41	2,568	747,411	660,598	88.3	82.3
1941–42	4,212	1,296,567	1,067,037	82.3	83.9

[a] Source: National Labor Relations Board Administrative Statistics Section.
[b] The data are presented for fiscal year periods (July 1–June 30).
[c] Valid votes in pay roll checks are the number of membership cards checked against the employers' pay roll records.
[d] Computed by dividing the number of votes cast for different (all) unions participating in the elections by the total number of valid votes cast during the year.
[e] Information not available.

This policy, however, prevents workers who oppose collective bargaining or representation by "outside" unions from influencing the result by staying away from the polls. Hence the Board has provided on each ballot in all its elections that the employees shall have the opportunity to vote for "No" or "Neither" as a specific alternative to the petitioning union or unions.

Run-off elections. As might be expected, when there is a choice between two or more labor organizations on the ballot, and an opportunity to vote for "neither," quite often no one receives a majority. In such cases the Board has always ordered run-off elections, but it has not always ordered the same kind. At different times it has ordered (1) a yes-or-no election with only the organization receiving the highest number of votes in the first election on the ballot; (2) successive elections eliminating from the ballot each time the organization receiving the lowest number of votes in the preceding election; (3) a run-off election between the two choices receiving the highest number of votes in the first election. At the present time, the Board seems to be following the third alternative, subject to the qualification that, in the absence of a request for a run-off by one labor organization or of a plurality in favor of one labor organization, the Board will refuse to direct a run-off.

Unfair labor practice cases. Thus far we have assumed that representation proceedings are conducted without reference to the existence of unfair labor practices in the plant or plants of the employer. Although, as a matter of procedure, representation cases are usually kept distinct from proceedings on a complaint of violation of the act, this rule does not mean that the Board's action in an "R" case is not affected by its

knowledge of an employer's unfair practices. For example, the Board early established and has never departed from the policy of refusing to place on the ballot the name of an organization found to be employer-dominated in violation of section 8 (2) of the act. Since it ordinarily takes much longer to investigate, decide, and enforce orders in an unfair labor practice case than in a representation case, the Board instructs its regional directors to advise bona fide labor organizations that they should decide whether they wish to withdraw the petition and have the Board act on company union charges or, alternatively, withdraw the charges and have the Board proceed with the representation case. The Board has often postponed elections until the regional director reports that the effects of an employer's unfair labor practices have been dissipated.

In certain recent cases of proceedings on a petition for certification, however, the Board has permitted the trial examiner to hear evidence submitted in support of an allegation that an independent union is company dominated when no formal charge against the employer was on file. These allegations have sometimes been dismissed; in other cases the Board has refused to allow the ostensible "independent" a place on the ballot.

The other unfair labor practice provision of the act often associated with representation proceedings is section 8 (5), covering an employer's refusal to bargain with the majority representatives of his employees in an appropriate unit. Since the Board takes the position that it is not an unfair labor practice in and of itself for the employer to contest the union's demand for a particular bargaining unit, in such cases the regional director will ordinarily advise the union that a petition for certification is the proper way to proceed. However, if the employer's position on the unit question is associated with charges against him founded upon preliminary evidence of other unfair practices, such as foremen's warnings against union membership and discriminatory discharges of union members, the Board may not only proceed to hold hearings on charges of refusal to bargain, but it may make a finding that the union is the majority representative of the employees in an appropriate unit and order the employer to bargain with it. Such orders have been upheld by the courts in the absence of an election. In such cases the Board's finding is based on a check of union authorizations against the employer's pay roll or statement as to the number of employees. Thus, the Board's policy of holding representation cases separate from section 8 (5) cases is not absolute. After a union has been certified, of course, the Board will always entertain charges of refusal to bargain upon presentation of proper evidence.

Conclusion

In no other federal agency does the volume of work in handling representation disputes equal that of the NLRB. Its average has been more than two hundred per month since 1940, while the National Mediation Board conducts only ninety-five to one hundred and fifty elections annually on the railroads. The National War Labor Board strives to avoid assuming functions already laid upon other federal labor agencies, although it has held a check to determine the extent of union membership in the International Harvester Company plants. The U.S. Conciliation Service has no statutory authority to conduct elections and does so only when the parties agree and request it to do so—a fairly infrequent occurrence. The routine procedures and policies on controversial issues developed by the National Labor Relations Board constitute, therefore, the principal body of administrative experience with industrial elections.

No attempt has been made to evaluate the role of the Board in the conflict between the American Federation of Labor and the Congress of Industrial Organizations. This conflict has been reflected in this paper in the relative emphasis given to such problems as the requirement of showing before

a hearing, whether an existing contract is a bar to an election, and the appropriate unit, entirely aside from the actual conduct of elections. Official statistics of cases cast little light on the bitterness and heat engendered by controversy on these points. For example, in 1940–41 only 335 elections and pay roll checks out of a total of 2,566 were straight AFL-CIO fights, and probably less than half of these involved disputes purely on the unit question. The routine handling of the great majority of cases is obscured by the dramatic character of the issues of principle. The attitudes of the great labor organizations toward the Board cannot be completely understood, however, without taking into account the Board's actions in setting aside union contracts entered into with employers as a part of the latter's unfair labor practices.

In sketching some typical problem situations in representation disputes coming before the National Labor Relations Board, we have traced several major lines of administrative policy back to their origins in the conflicts between union and employer, and between union and union. We have seen that the law provides that a labor organization shall represent a majority of employees in order to obtain the formal statutory privilege of exclusive bargaining rights. This requirement would seem to be a fairly clear and simple fact for the Board to determine. But, in analyzing the process in which the Board, as it were, verifies the credentials of a union before certifying it to the employer as the sole agent of his employees for purposes of collective bargaining, we find the Board evolving a rather complex series of policy considerations covering a wide variety of situations—of which only one or two may be at issue in any given case.

What is the administrative significance of these policies or conventions? One answer might be that they reflect a legalistic preference for complexity on the part of the Board. The writer is inclined, however, to attribute them to an inherent complexity in labor relations problems themselves. Questions of representation are peculiarly apt to present extremely delicate situations. In order to avoid being merely a pawn in the midst of the pressures surrounding its investigation of such questions, the Board has been forced to lay down what may be called "standards of expectation." That is to say, these policies have the function both of guiding unions and employers in their dealings with one another and at the same time of informing the Board's own staff as to the kind of information the Board wishes to have before it when it decides cases. Out of these rules or standards, if they come to be accepted by the parties in labor disputes, will grow the customs or understandings upon which stable labor relations must be founded. It is in this larger sense of introducing the element of continuity and agreement as to the rules of the game that government plays its most constructive role in regulating conflicts of economic interest, and in the long run it is by this test that the work of the National Labor Relations Board will be evaluated.

Recruiting Administrative Personnel in the Field

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Third Regional Office, United States Civil Service Commission

YEARS ago, Mark Graves, chairman of the New York State Tax Commission, made the observation that civil service does not guarantee government will get the best employees; it merely ensures that government will not get the worst. However inadequate the best of what came to the examination room, the results were accepted more or less complacently.

Such procedure was inadequate in time of peace, but in time of war it provided an impossible basis of operation. Not only was the number of positions to be filled enormously increased, almost over night, but many of them were of new and previously unknown types. As the selective service law continued to function, and more and more defense plants were placed in full operation, the shortages in certain phases of the labor market became acute. Under such conditions, if positions were to be filled at all, new methods and techniques had to be developed.

The problems presented were new to everyone concerned. Speed was of the essence. Positions, newly conceived, had to be filled immediately. Even if there were no suitable registers from which the names of eligibles might be taken, qualified persons had to be found and found quickly. They had to be available for induction into office on short notice, often at points far distant. Under these emergency circumstances, the United States Civil Service Commission could not afford to fail.

The Commission adopted as a cardinal principle that qualified persons must be on hand for work, when and where they were needed. It was confronted with the greatest opportunity and responsibility in its history. When, in the depression, there had arisen a great and sudden need for increased government personnel, many of the emergency acts had specifically excepted the positions required under them from the operation of the civil service law. Now, at the beginning of the defense program, the Congress and the Administration seemed willing to let the Commission undertake the task of filling the required positions. The Commission resolved to do the job so well that no operating official would be able truthfully to say, "I could perform my responsibilities if only the personnel required could be supplied when needed."

Regional Office Personnel and Procedure

TO MEET this situation, the Commission early reorganized its procedures and expanded its personnel, both in the central office and in the field. The story of what happened in the central office is to be told in another paper; the present concern is with the steps taken to enlarge and develop the field force. The regional offices had heretofore functioned with six sections—administrative, investigations, application and examining, certification and appointment, mails and files, and information—each with a small personnel. In May, 1936, the total personnel in the third regional office (Philadelphia) was fifteen; in May, 1940, it had risen to forty-five; in September, 1940, to about seventy-five. With the beginning of

the war program, a new recruiting section was set up; although less than a year old, it is at present the most important section in the regional office. Its personnel is larger than that of the whole regional office a couple years ago, while the total staff of the office, including those in the field, was 424 on September 1, 1942.

As the recruiting section grew, the number of rating examiners increased, and representatives and special representatives, assigned to recruiting work, were added to the staff in the regional offices. At first there were only a few, but the number gradually increased—rapidly increased, in fact, after the attack on Pearl Harbor, when the war program began to grow by leaps and bounds. A carefully planned program was worked out for the training of this new personnel. Weekly meetings were held to discuss methods and procedure; mimeographed bulletins were issued covering important points, and a recruiting manual was prepared for the guidance of the staff members.

In order to handle the work more efficiently, the principle of the division of labor was applied both geographically and functionally, and the positions to be filled were divided roughly into two groups. The more important positions, those in grades CAF-7 or higher, salary $2,600 per annum and above, were handled in a special recruiting unit consisting of recruiting specialists, representatives, and special representatives. All other positions not filled by certification from rosters established by assembled examinations were handled by the larger general recruiting unit. These included positions in grades CAF-1 to CAF-6, inclusive, with salaries up to $2,600 per annum, such as stenographer-typist, clerks, and various types of skilled and semiskilled workers, inspectors, investigators, and the like.

Not only for the purpose of increasing efficiency but of holding at a minimum the expenditure for travel and subsistence, it was necessary to assign representatives to posts of duty scattered throughout the region. The post offices had long been used as centers for the dissemination of information regarding civil service examinations, and in some of the bigger cities, central rating boards, functioning very largely as branches of the regional office, had been set up. These agencies, however, were not able to carry on the huge volume of new work growing out of the war effort. In the third region, for example, one or more representatives were stationed in Wilmington, Delaware, and in the following Pennsylvania cities: Allentown, Bethlehem, Scranton, Wilkes-Barre, Middletown, Harrisburg, Chambersburg, Connellsville, Williamsport, Altoona, Erie, and Pittsburgh. In the latter city, a central rating board, later changed to a branch regional office, was already functioning.

The principle of the division of labor was employed functionally as well as geographically. Some representatives were assigned to recruiting for particular types of positions, such as stenographer-typists or inspectors, while others were assigned to particular war agencies to look after all of their personnel needs. In the third regional office, this plan was followed in dealing with the Frankford Arsenal, the Philadelphia Navy Yard, the Philadelphia District Ordnance Office, the Quartermaster's Depot, the Marine Corps Supply Depot, the Signal Corps, and the Maritime Commission. In addition, representatives were assigned to serve in a liaison capacity between the Commission and numerous other establishments, such as the Employment Service in Philadelphia, Pittsburgh, and Harrisburg, and the Office for Emergency Management in Philadelphia and Pittsburgh. These representatives work entirely on their own in the field, dealing with recruiting orders for all types of positions under instructions issued to them from the regional office. Frequently the conditions under which they work are difficult, due to the lack of adequate facilities.

Early in 1942, the Commission authorized the appointment in each regional office of a recruiting specialist and an associate recruiting specialist assigned to the task of finding

high-grade executive, administrative, and technical personnel for positions in the federal service. These positions required men with sufficient educational and cultural background, experience, and knowledge of business and professional affairs to enable them to judge what types of personnel were needed to fill a particular assignment and with sufficiently broad acquaintance and wide contacts to enable them to judge how and where to go for the types of persons needed.

The work of the recruiting specialists consists primarily in contacting sources likely to produce persons with desired qualifications and in interviewing those brought into the regional office as a result of telephone calls or letters, or who come in of their own accord. Personal contacts in the field are extremely valuable and sometimes necessary.[1]

While most contacts are made in response to a specific recruiting request, the attempt is made where possible to secure the cooperation of groups, such as engineering clubs and technical societies, business clubs and organizations, in order to broaden the contacts of the regional office and to facilitate the flow of applications from qualified persons. The importance of the latter procedure is to build up a reservoir of applications from which future recruitment requests may, at least in part, be filled. The needs of the federal government are not only urgent but fluid. Today the need may be for commodity specialists or statisticians and economists for the Office of Price Administration; tomorrow it may be for priority analysts with knowledge of production in some metals industry for the War Production Board, and next week for persons with totally different qualifications. It is obvious, therefore, that to the extent a supply of applications from qualified persons is on hand, recruitment requests may be filled promptly and economically.

Finally, a number of dollar-a-year men as expert examiners were added to the staff of each regional office to assist in direct and active recruiting. These men, distinguished in their respective fields of endeavor, were to devote such time as they could, either full time or part time, aiding regular members of the Commission staff in locating high-grade personnel for executive, administrative, and technical positions. Most of these positions have been filled; those appointed in one region included a leading investment banker, a branch manager for an insurance company, a college president, a chamber of commerce executive, and a personnel officer for a large construction company.

Types of Recruiting Work

WHERE it is still possible to get a sufficient number of qualified applicants by use of the procedures formerly employed, i.e., the announcement and giving of examinations and the establishment of eligible lists, they are continued. To meet the needs in situations in which these procedures are not adequate, several new types of recruiting have been developed and are now being

[1] Since the recruiting specialists have gradually assumed greater responsibility for the recruiting program as a whole, it may be of interest to note the specific duties assigned to them: "Personally is expected to carry on extremely difficult, frequent, and urgent contact, negotiation, and interview work required in order to recruit from all possible sources within the district office area, including governmental sources, private industry, educational institutions and any other recruiting source, sufficient specialists in technical, executive and administrative fields to fill current or anticipated needs, particularly for economists, executives, administrators, commodity experts, industrial specialists, including civilian executive personnel to be commissioned in the military services, and related technical, professional and executive persons, this requiring the incumbent to furnish actual qualified people rather than merely a list of names to the interested appointing officer or to recruit them at the request of the central office of the Commission for positions in Washington or elsewhere; conducts negotiations with high-ranking government officials, heads of industrial establishments and educational institutions, etc., in the district regarding the possibility of making available their qualified personnel for more important jobs in defense offices located in the district, in Washington, or elsewhere; in this connection discussing particularly with the heads of Federal government agencies the possibility of transferring Federal employees under the provisions of Executive Order 8973 and the question of replacing the transferred persons. In connection with such recruiting program, the incumbent must conduct all necessary negotiations, interviewing and other necessary activities, including obtaining of release, making necessary district office, central office or other clearances and actual placement on the job by the deadline set; and to perform related recruiting assignments as required."

used. In each instance, a definite agreement is entered into between the appointing officer and the Commission or one of its regional offices. The agreement contains specific information as to such matters as the qualifications for the positions to be filled and the nature of the work to be performed, as well as information regarding the number of vacancies, classification, salary level, and post of duty.

Direct Recruiting. When the Commission is authorized by an agency to recruit and place certain classes of its employees without interview or review of the application by agency officials, the process is referred to as direct recruiting.[1]

The direct recruiting procedure is highly satisfactory, and the Commission encourages its greater use by appointment officers. That this procedure works well is attested by the experience of the third regional office with an agency moved to Philadelphia from Washington. Some six hundred employees having various types of qualifications, classifications, and salary levels were required. All were supplied on time, and a very negligible percentage were later reported to be unsuitable. This particular agency had been reluctant to leave Washington because it was feared that equally satisfactory personnel service could not be secured in the field. After this experience, the staff of the agency affirmed that they had had better service in the field than in Washington. The Commission organization itself naturally prefers this type of recruiting and, when given the opportunity, strives to justify its use.

Positive Recruiting. When the examining division finds it necessary to obtain applications for use in filling specific vacancies by special order on the regional offices, the process is called positive recruiting. It is used only after a search of the central office files indicates qualified applicants cannot be found therein and when the order from a war agency sets a time limit which precludes the use of an examination announcement or recruiting circular.

Under the positive recruiting procedure, the Commission undertakes to procure applications from qualified individuals and to submit them to the agency for consideration. The regional office also undertakes positive recruiting on its own initiative after an agreement has been made with the agency to meet regional needs without recourse to the central examining division. In other words, where positive recruiting is used, the examination is unassembled. The interview may or may not be a part of the positive recruiting procedure; at any rate, the interview, if held, is the concern of the appointing officer, not of the Commission or its representatives.

Joint Recruiting. When an agency and the Commission act together in the recruitment and selection operations, the process is referred to as joint recruiting. Under these circumstances, the agency designates a representative authorized to make final selections for appointment, who travels in the field with a representative of the Commission making appointments on the spot.

The joint recruiting procedure has been used in recent months with increasing frequency and effectiveness. For many positions joint recruiting is more acceptable to the operating agencies than direct recruiting and, in the absence of the latter, is encouraged by the Commission whenever practicable and feasible. Under this procedure, the Commission undertakes to line up a number of persons eligible for the position in question and to arrange a schedule of interviews for such persons, at which time the appointing officer and a representative of the Commission talk with them. Following these interviews the appointing officer decides which person or persons are to be appointed. This procedure is satisfactory in practice because it gives candidates an opportunity to be interviewed for a particular position and it gets positions filled quickly.

[1] This definition and others below are taken from the Commission's Circular Letter No. 3808, September 11, 1942. In connection with this definition of direct recruiting, it should be noted that the Commission cannot, under any circumstances, actually appoint anyone except as members of its own staff.

Advance Recruiting. When the Commission finds it necessary to obtain applications in order to anticipate vacancies which are expected to occur in the immediate future, the process is called advance recruiting.

Advance recruiting presents a number of very serious problems, at least from the point of view of the field office. The desire of the central office to have on hand a reservoir of qualified applicants which can be tapped from time to time as the need arises is easy to understand. The regional offices, as a matter of fact, pursue this policy also. In order to establish such a reservoir, however, it is necessary to contact a large number of people and induce them to file applications for positions which, at the time, do not exist. If this fact is explained to high-grade eligibles, they are likely to be unwilling to file; if it is not explained to them, or if they do not understand it, they are apt to become considerably perturbed when a long period of time elapses and no action results from their applications.

In general, the results obtained by advance recruiting, particularly for high-grade positions, have been disappointing; and the effects upon the public relations, both of the Commission and of the regional offices, mostly bad. This is indicated by the number and character of the letters, telephone calls, and personal visits received by the regional office from disappointed and disgruntled applicants, many of whom have received notice of eligibility from the Commission. Such reactions are particularly unfortunate in view of the fact that a highly qualified person's experience may be usable in more than one type of position, yet a second approach to a dissatisfied individual is usually unproductive. Of course, a second approach would be unnecessary if an applicant's experience were properly coded in the beginning, but this would require the use of a coding system, such as the Commission has planned for installation in the near future.

With such a system, efficiently operated, much of the delay now encountered in bringing to the attention of appointing officers the experience records of qualified persons will be eliminated, and applicants will be assured a fuller survey of their qualifications. There is, however, no wholly acceptable substitute for the personal interview either in recruiting or in the selection of personnel by an appointing officer, and an experience record is but part of the story. The best results in recruiting and placement are obtained only by the use of the techniques of direct or joint recruiting wherever and whenever there are actual jobs to be filled.

Recruiting Circulars. The use of recruiting circulars is a variation of the advance recruiting technique. The Commission has prepared and given limited distribution to some eighty of these circulars, each describing the duties and qualifications of a particular type of position, such as the various types of specialist, analyst, executive and administrative officer, or professional positions. These circulars are mailed to likely sources of qualified candidates. Although the government wants persons who are looking for jobs, if they are qualified, the difficulty in practice has been that the circulars often fail to get into the hands of the right people. Executive and personnel officers of corporations may withhold the circulars because of the possible loss of good employees. Often those who do apply are of the type who are habitually looking for a job, whereas the government is anxious to secure the services of men who are sufficiently outstanding in their chosen field so that they do not need to seek employment. Such persons will serve out of patriotic motives and frequently at personal financial sacrifice. To appoint someone who is out of work, however, or to make use of a higher skill than is at the time being utilized, serves to relieve the disruptive influence of the war program on private industry.

Regardless of the particular type of recruiting employed, some common problems present themselves, notably with regard to the effect of the selective service program. It is obviously undesirable, as a matter of

policy, to recruit and appoint men of draft age whose selective service classification is such as to suggest the probability that they will soon be called for military service. Although the law does not permit discrimination against them, no appointing officer will select them; they are thus consigned, temporarily, to a kind of limbo. The field of eligibles open to recruiting efforts is, therefore, limited to men with deferred classification due to dependency, minor physical disability, or occupational reasons; to older men; and to women. In the months to come the latter will be drawn increasingly into the war effort.

Likewise, it is inadvisable to draw into federal employment persons who are already actively engaged in the war effort, unless their skills can be used to better advantage by the government than by private industry. A transfer procedure has been available for federal employees.[1] Such situations quite often arise in executive positions concerned with personnel and financial matters. Persons in private employ, engaged in war work, must secure a release from their present employer except under certain clearly specified circumstances. Thus the field of eligibles open to recruiting efforts is still further limited. In a few instances where the services of particular individuals in the government are held to be essential to the war effort, the private employer may be prevailed upon to release the person or persons in question even when he feels very strongly that the services of such persons are essential to the successful operation of his own establishment.[2]

The chief problems of recruiting arise from the fact that the demands of government and private industries engaged in war work are for the same types of technical personnel. This war is fought with machines which are produced by other machines that must be designed, installed, and operated by persons possessing adequate skill and training. Serious shortages have already developed among engineers, physicists, and persons with various types of technical and mechanical skills. Substitution of other experience is not possible where technical training is essential, and accordingly there is no alternative to a training program if technical skill is to be made available in sufficient quantities for the successful prosecution of the war. This need has been anticipated in the various training courses set up and financed by the federal government, but financial and other sacrifices of considerable proportions are often called for on the part of the individuals involved.

A great problem facing the nation today is that of making use of the abilities of men displaced by priorities and the demands of war production, particularly those who have spent most of their business lives in sales activity. Many of them are high-grade persons, able and intelligent men and women who have made high salaries but who now find little in their business experience which qualifies them for federal positions. So long as personnel needs can be met with persons having the special qualifications that positions call for, such individuals must stand aside. But as manpower needs increase, and as younger men are drawn into the military services in ever increasing numbers, the necessity of filling positions with persons who do not possess the particular experience desired will grow correspondingly.

This is not wholly to be deplored, however. It is a sad mistake for the federal government, or for private industry, to overlook the adaptability of intelligent people, especially in fields where labor shortages exist and where the substitution of other skills may be possible. Evidence exists on all sides that persons possessed of business acumen and sound judgment have proved themselves capable of performing efficiently the duties of positions for which they would be rated ineligible on the basis of experience records. Sound recruiting procedure should

[1] This procedure has been modified by the War Manpower Commission's directive effective September 27, 1942.

[2] For the most recent statement of Commission policy with regard to the release of persons engaged in war work in private industry, see Circular Letter No. 3800, September 2, 1942.

not confine itself to receiving applications and rating them, particularly during the war emergency when all abilities must be utilized. It should place great emphasis upon personal interviews and in such interviews upon ascertaining information with regard to personality, intelligence, and other traits, the possession of which should render an individual adaptable to various types of positions.

Handling Applications

THE ordinary citizen who applies for federal employment cannot understand why it should be necessary for him to file more than one application, but he is convinced that it *is* necessary. Some applicants file many applications, not only with the Commission in the central office and in the field but with the personnel offices of various operating agencies. The ordinary citizen is right, both in theory and practice. One fully completed application should be adequate to get the qualifications of the individual before any appointing officer; actually, it is desirable for a person to file both in the central and regional offices for as many different types of positions as the applicant believes he may be qualified to fill, due to the fact that, up to the time of writing, there is little exchange of information on the qualifications of applicants as between central and field offices. Such a condition is more or less inevitable in view of the huge number of applications handled in both the central office and the field during recent months.

This situation can be corrected, and if plans now under way are carried through to completion, it will be in the near future. The task to be handled is a huge one; there are approximately 2,250,000 civilian federal employees and additions are being made at the rate of 175,000 or 200,000 a month. It is estimated that there are more than 100,000 federal positions in the Philadelphia area alone; one agency has over 40,000, another over 12,000. Applications flow into the central office and the regional offices by the hundreds every day. In the existing condition of the labor market, it is desirable for the Commission to accept any application offered and make the best possible use of it. However, if the Commission is to assure each applicant the fullest possible consideration of his application in any number of positions for which he may be qualified, some adequate method of coding and sorting the great numbers of applications must be found. Under such a system, any applicant not immediately useful in filling a position in one field might be considered in connection with placement in a different or related field.

The United States Employment Service has worked out an elaborate system of job classification, now used in employment offices throughout the country. While it is more complicated than is essential for civil service purposes, at least in the field offices, it provides a basis for the development of any special purpose system of job classification. When completed, the classification adopted by the Commission will make possible the coding of all applications on hand as well as those received in the future. This information will then be put on punch cards, which will be sorted by automatic sorting machines to bring to light individuals with any type of qualifications or combination of qualifications that may be desired. This type of equipment will be available in both the central and field offices.

Interviewing Procedures in the Field

ALL applicants for positions in the federal service may, under the war service regulations, have at least two interviews prior to placement. Many who visit the regional offices of the Commission are interviewed at the time they file an application by a representative of the Commission or by one of the recruiting specialists. Later, when specific vacancies occur, the individual may be called in for an interview with the appointing officer. The first interview may be regarded as preliminary; the second is the one during which he either convinces the appointing officer that he is the man for the

job or else spoils his chances of appointment. Anyone who has ever done any considerable amount of interviewing will be able to recall specific instances in which a person, otherwise acceptable, has completely eliminated himself from consideration by tactlessness or inept remarks during an interview.

The importance of the interview in the appointing procedure is considerable. It gives the appointing officer an opportunity to evaluate the applicant before he is put on the pay roll, while it gives the applicant a chance to present his case in person and to answer questions relating to his qualifications and experience. Although it may impose an undue financial burden upon applicants residing at a distance to require an interview (since the probationary period gives the appointing officer an opportunity to eliminate the unfit), the applicant for any high-grade position who does not assume this burden places himself at a serious disadvantage in competition with those who do. For minor positions the interview may not be so significant, and appointing officers may, in fact, be urged by the Commission to dispense with it.

In recent weeks an effort has been made to eliminate some of the waste involved in having the same person interviewed by half a dozen different agencies, especially when the interviews are preliminary or exploratory in character. An interesting device for this purpose was first developed in Cleveland and later extended to other cities where regional offices of the Office for Emergency Management are located. Cleveland was ideally situated for this experiment; all its federal offices were housed in one building, and there was in the city no regional office of the Commission. Under this plan, a joint interviewing unit was established, capable of handling interviews at all levels and staffed by interviewers from the agencies being served. Persons seeking employment in operating agencies in the area were referred by officials to the central interviewing office. Applications were obtained from these individuals, a record of the interview was made, the applications were indexed according to qualifications possessed and placed in an appropriate file so as to be readily available when needed for referral to appointing officers upon receipt of requests for persons with such qualifications.

Appointments

All appointments are made under the war service regulations, the provisions of which differ in many respects from the normal regulations under which the Commission functions in time of peace. Three differences may be mentioned specifically. In the first place, the upper age limit is lifted for most positions, the only requirement being that a person must be physically well and able to perform his duties. In the second place, many examinations are unassembled or informal, consisting of an evaluation of the educational background and experience of the applicant in relation to the clearly stated requirements for a particular position. No numerical ratings are given for these examinations, the applicant being merely rated eligible or ineligible. For many types of positions, however, assembled examinations and numerical ratings are still given. Appointments made under the war service regulations (except in the Post Office Department and a few other positions) do not carry the normal assurance of tenure during good behavior and faithful performance of duties but are limited to the duration of the war and not more than six months thereafter. There is nothing in the regulations, however, to prevent later provision for the retention of well-qualified employees desiring to remain in the public service at the conclusion of the war.

When requests for certification are received, the Commission or its regional offices submit the applications of a number of eligibles for consideration, together with a letter of authorization for each individual or for the members of a group collectively. Without such a letter no appointing officer is at liberty to put any one to work; if he

does so, he may be held personally liable for the compensation of such "employee." The appointing officer exercises his right of selection, largely on the basis of personal preference, from among these eligibles; he is not supposed to keep applications referred to him for a period longer than seven days without reporting on them. If the applications are needed by the Commission for consideration in connection with the filling of other vacancies, requests may be made for their return. The appointing officer may or may not interview the applicants; at any rate, the Commission has nothing to do with the interview of eligibles except when initial recruiting is involved.

Numerous problems arise in connection with the exercise of the appointing power. A few of these are mentioned here, not for the purpose of criticizing any organization or person but by way of illustrating typical problems in the establishment and rapid expansion of new agencies. One of these is the submission of name requests by appointing officers. Especially with some of the newer agencies whose officers are not familiar with the established procedures for handling federal personnel matters, there has been a tendency to try to duplicate the recruiting efforts of the Commission, and to submit such name requests for approval by the Commission. The principle has been established that name requests will be honored only when the individual desired by the operating agency has qualifications as good or better than those of any candidate that the Commission is in a position to supply at the time. Otherwise the named candidate will be placed in competition with other qualified persons recruited by the Civil Service Commission.

Another problem creating serious difficulties, from the Commission's point of view, is the development of differences between persons and branches of a single operating agency. The establishment of lines of authority requires time and patience; it is not surprising that problems of this character arise in newly created organizations. In one organization, for instance, the original understanding was that the line of authority would extend directly from the office of the local director to the regional executive, although other divisions of the same organization operated under the supervision of the state administrator. This situation was the more confusing because the personnel transactions of the rest of this organization were handled by the Office for Emergency Management. The problem was finally settled only after this division was brought under the same rules and regulations applying to other divisions of the organization.

When in addition to confusion regarding lines of authority there is introduced an element of rivalry between individuals or between different parts of an organization, the situation may be very embarrassing to the Commission. Such conflicts are not uncommon between state and regional offices of an organization or between the central office and the field. In some instances the higher appointing officer comes directly to the Commission or to its regional office with requests for personnel, without even telling his subordinates in the field what he is doing. The regional offices are anxious to maintain good relations with the appointing officers in their own regions, yet they are under obligation to honor requests coming from any duly authorized official, whether located in or out of their region. In a number of such cases the local officer has learned for the first time of plans and developments within his own organization from representatives of the Commission.

Another problem arises with regard to temporary employees. Temporary employees are appointed under Schedule A of the war service regulations, authorizing the appointing officer to recruit and appoint for a period not exceeding ninety days without any action on the part of the Commission. Such appointments may not be extended beyond that time. In a few instances recruiting work on such appointments has been done in a regional office as a matter of accommodation to a new organization without

a permanent staff and without means of it's own recruiting for temporary service.

Conclusions

WE HAVE explained in some detail the origin and development of the recruiting work of regional offices of the Civil Service Commission during the first year of the war effort. The growth of the regional organization has been rapid, the changes have been many, and no doubt many more are yet to come. The organization must continue to be flexible, as it has been to date, thereby permitting prompt adjustments for the meeting of new needs. The record may be of some present interest to students of personnel administration and of value in the future to persons interested in the historical development of recruiting procedure.

It is the firm conviction of many who have been closely identified with the development of the regional program that it has significance far beyond its relation to the successful prosecution of the war effort. The public service will continue to be, in the postwar world, larger than it was before the war; it will be engaged then, as it is now, in performing a multitude of services of vital significance to the well-being of every man, woman, and child. If government is to meet adequately these new responsibilities of peacetime, it must be able to engage the services of men and women of distinguished ability, training, and experience. The record of the past shows only too clearly that the government cannot be sure of getting them by the old, haphazard methods of recruiting for the public service. Experience with new methods of recruiting, on the other hand, shows that such personnel can be obtained in this way. These procedures, subject to such refinements and improvements as their use may indicate to be desirable, should be continued.

The Reorganization of an Employment Service

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A PUBLIC employment service serves two groups at once, workers seeking jobs and employers looking for men and women to hire.[1] It is therefore necessary for an employment service to organize its placement work with considerable discrimination. Probably nowhere in the United States is this problem of organization more difficult than in New York City, where the New York State Employment Service has a regional office for the New York metropolitan area.

Several unusual difficulties faced the New York metropolitan area office of the New York State Employment Service at the beginning of 1940. Among these may be noted the following: first, the New York City labor market was the largest in the country; second, employers and job seekers were concentrated in different areas; third, community organizations generally were not established on a city-wide basis; fourth, the public employment service was restricted by the policies of trade unions and private employers.

The metropolitan area office (which hereafter will be referred to as the Employment Service) had made several major changes since 1937 in an effort to organize itself properly for its placement functions.

The management of this activity was complicated by the fact that the Employment Service had to administer the unemployment insurance law as well as the placement function throughout the five boroughs of New York City, Nassau and Suffolk Counties, and part of Westchester County. In December, 1937, the Employment Service had a single central placement office; in May, 1939, it had a geographically dispersed placement system with one central office for professional workers; beginning in August, 1939, it set up two other central offices, the summer resort unit and the central merchandise unit, which operated on a city-wide basis until February, 1940; and then the Employment Service was organized with twenty-seven local employment offices, as well as several specialized central offices.

Each of the local offices in 1940 took applications for employment (and also for insurance benefits), received and filled employers' orders, and conducted a field visit program. They were distributed among four districts with a superintendent in charge of each district. To facilitate the operations of the scattered placement offices, services were provided by two other central units, the clearance control unit and the central medical unit. The clearance control unit transmitted employers' orders, wherever received, from one local office to another in order to speed up placements and to distribute employment opportunities more equitably. The medical unit was a clerical service unit with special interviewers serving the physically handicapped. It secured medical reports requested by the interviewers from clinics, hospitals, and doctors.

The Employment Service administration found this system of organization unsatisfactory. Some of the administrative difficulties that it encountered were, of course, the result of unavoidable handicaps. Others

[1] The writer acknowledges with thanks the invaluable assistance and data received from Miss Eleanor Park, United States Employment Service, New York.

stemmed from the organization pattern itself. The clearance system particularly was a cumbersome procedure. Many local offices had too many applicants while others had a surplus of job opportunities. The clearance system did not seem flexible and effective enough to solve the problem. Its slowness especially was a cause of dissatisfaction among private employers and among the personnel of the Employment Service.

Survey of the Problem

THE first step toward a reorganization of the placement function was a survey of the problem. The New York State Employment Service invited the Bureau of Employment Security of the Social Security Board to join with it in a survey of the Employment Service and the labor market in New York City, including studies of transportation, housing, and the placement practices of employers, unions, and nonprofit and commercial placement agencies.

The survey in general revealed two broad facts which any reorganization of the placement service would have to take into account. First, in several of the more important industries, job opportunities were highly concentrated in specific areas and the workers were accustomed to living at a distance from their places of employment; second, the Employment Service needed to cultivate its relations with employers if its services were to be more effective.

Data available through the survey indicated that, as of 1940, three and one-half million persons in the area were gainfully occupied. Seventy per cent of these worked in Manhattan, although only 31 per cent resided there. Thirty-five per cent of the total resided in Brooklyn, 17 per cent in the Bronx, 15 per cent in Queens, and 2 per cent in Richmond.

The needle trades industry, the largest source of demand for workers, with 280,000 employees as of September, 1939, had two main areas of concentration: 79 per cent of its employees worked in Manhattan and a smaller group in Brooklyn. This industry imposed exceptional demands on the labor market since it was highly seasonal and subject to extreme fluctuations.

In Manhattan were also employed 75 per cent of all commercial, professional, and sales workers, 93 per cent of the quarter million hotel employees, 71 per cent of the restaurant workers, and 71 per cent of the service workers. The building trades industry and domestic service were the principal types of employment which were generally distributed throughout the city.

The survey showed that New York City was predominantly a city of small and medium-sized business firms. Fewer than 80,000 of its 300,000 establishments had as many as four employees. Even among the manufacturing establishments, 60 per cent had fewer than ten employees. Many of these firms had high seasonal fluctuations with rehirings accounting for more than one-half of the one and one-half to two million accessions per year.

The need for closer relations between the Employment Service and employers was shown by the small proportion of job placements handled through the Employment Service, the dissatisfaction of employers with its services, and the special difficulties that stood in the way of satisfactory relationships. In June, 1940, it was found that slightly more than one half of the 530 firms sampled had never used the Employment Service, and 60 per cent of those that had used it indicated some measure of dissatisfaction with its work. Many employers complained of the referral of poorly qualified applicants, of slowness in responding to requests, and of the Employment Service's failure to understand employer requirements. In no industry group was the Employment Service a large source of placement; its record was poorest in the construction and transportation industries. Some employers were simply ignorant of the existence of the Employment Service. Many preferred or found it necessary to seek their workers through other channels than the Employment Service. The survey made it clear that the Service needed

a much more extensive program of publicity and of visiting employers.

A large proportion of the workers of the city belonged to labor unions and 90 per cent of the unions maintained their own placement facilities. Much of the employment of workers was therefore subject to the unions' membership regulations and their contractual relations with employers. The building trades industry, for example, was highly unionized, and most workers were placed through localized union channels. The high degree of unionization in the printing and publishing industry, in which 88,000 workers were employed, strictly limited the volume of placement activities. In general, the Employment Service had few cooperative agreements with the unions. Partly as a result of this situation, 40 per cent of those placed by the Employment Service were domestic workers.

As a result of these facts, the local placement offices were rendering very unequal services. One office in December, 1939, had an active file of 29,112 applicants; another had only 2,348. Between September, 1939, and March, 1940, one local office placed 11,230 applicants; another placed only 446. During the same period, either directly or through clearance with other offices, one placement office in Queens obtained a job for one of every 2.2 applicants; a Manhattan local office found a job for no more than one of 12.3 applicants.

The concentration of certain industries and occupations in limited areas and their employment of persons living throughout the metropolitan area made necessary a great volume of clearance among the local placement offices. From September 1, 1939, to March 30, 1940, 43.4 per cent of the placements by the Service were effected through clearance. The proportion of placements that required clearance ranged from 0.6 per cent in a local office in Richmond to 51.3 per cent in a local office in Manhattan.

The survey staff pointed out that the geographical areas for office jurisdictions as then organized did not meet placement needs realistically and that clearance among many offices was an uneconomical method of bringing workers and jobs together.

Three Plans Considered

On the basis of the facts shown by the survey, the Employment Service officials considered three forms of organization that could conceivably be applied to the placement function of the Employment Service.

One plan would be simply to keep or to rearrange the geographically distributed local offices. The staff of each local office under this plan would receive applications from persons living in its area and confine its direct placement efforts to employers within the same boundaries. The only argument in favor of this plan was the convenience of each office to applicants. The argument was not a weighty one in view of the fact that so large a proportion of the workers of the city were accustomed to using the excellent public transportation facilities to go to the jobs for which they were trained. Under this plan most of the placements would have to be made through an elaborate clearance mechanism by which the application of a worker living in the district served by one office would be forwarded to other offices for placement elsewhere in the city. This system would have the defect that one group of interviewers would deal with those looking for jobs and another group with employers, and that these two groups, connected only by a formal clearance system, could not work together intimately enough to serve employers satisfactorily.

A second plan was a compromise. It called for the maintenance of local offices distributed geographically according to population. At these local offices applicants would register, be interviewed and classified, and would indicate their continuing availability for work by repeated visits. At the same time a central unit would be set up for the convenience of employers, as close as possible to the place of their greatest concentration by types or groups. To this central unit the local offices would send duplicate registration

cards and the central unit would then refer applicants on the basis of these cards in response to job orders.

This compromise plan was also rejected. It did not go far enough toward removing the great defect of the first plan, namely, the interviewing officers' lack of contact with both applicant and employer with respect to the same job. Under the compromise plan, the interviewers in the local offices would have little or no contact with employers and little knowledge of their specific needs. In the central office interviewers would know the employers' requirements, but they would have to work on card records alone without personal acquaintance with the applicants. Moreover, since various industries and employer groups were concentrated in different areas, no single central unit could serve all conveniently.

Thus the survey staff and the Employment Service officials were brought by the logic of the situation to a third plan of organization, which was based on the facts that the various groups or types of employers needed special attention and that applicants would be ready to go wherever work opportunities were available. This plan called for the creation of a special placement office for each major employing group and the location of this office near the geographical heart of the industry or business that it was to serve. Thus all workers having any one of several related skills would register at a single placement office at which the placement interviewers would be men directly in touch with the needs of a single type of business. This plan made it possible for a specialized office to give full attention to a single industry, to become intimately acquainted with its needs, to persuade its management that the Employment Service could help it, and to refer workers whose technical and personal suitability could be assured by direct interview. Each interviewing officer would thus have the greatest possible opportunity to relate the type and degree of an applicant's skill to the current job requirements. The clearance of job openings and applicants under this plan would be reduced to an absolute minimum.

This plan had its faults. The necessity of visiting a central city-wide office might deter a few applicants from making their availability known. The most serious objections to this plan were concerned with the physical separation of the placement and insurance functions. The adoption of a centralized placement service might disturb the functioning of the current plan of administration of unemployment insurance benefits; it was thought the paper work would be greatly increased by the necessity of keeping central points currently informed of address changes and other items. The separation of the two functions, moreover, would make it necessary for a person to go to two separate offices to apply for a job and to collect his unemployment insurance.

Both the federal Bureau of Employment Security and the New York State Employment Service, however, agreed that in spite of these objections the placement function should be organized to conform to the distribution of job opportunities. With certain modifications, therefore, the third plan was generally put into effect.

Reorganization Effected

Five central metropolitan placement offices were set up, each serving a single occupational group and each under a superintendent directly responsible to the assistant director of placement for the metropolitan region. The five occupational groups were the hotel and service, the building and construction, the industrial, the commercial, and the needle trades groups.

In the organization of each of the five central placement offices, certain minor modifications were made in the general principle of organization by industry or occupation. For example, under the superintendent of the metropolitan hotel and service office, a senior manager was placed in charge of several household placement offices located in several boroughs. In the metropolitan building and construction office, branches were

established for Brooklyn and Queens; the metropolitan industrial office followed this example. Under the superintendent of the metropolitan needle trades offices were placed a senior manager for the dress industry, a senior manager for Manhattan, and a senior manager for the Brooklyn branch. A separate placement office was set up in each borough to handle applicants for domestic service.

The local offices in Richmond and in Nassau, Suffolk, and Westchester Counties continued to administer both placement and unemployment compensation functions, each under a superintendent responsible to the metropolitan region director. Throughout the rest of the city, however, twenty-seven local offices were set up to administer the unemployment insurance function separately from the function of placement.

Results

THE reorganization was effected during the latter part of 1941 and was virtually completed at the time the State Employment Service came under federal operation on January 1, 1942. The reorganization, it was generally agreed, was highly successful. The expansion of most business and industrial activities and the curtailment of building operations as a result of the war program made a statistical survey of the results impossible, but administrative officials in the Employment Service agreed that more effective service was being provided to both employers and applicants. Interviewers and office managers, who now work in specialized fields, acquire an intimate knowledge of their various branches of the New York City labor market. This increasing familiarity with special businesses and occupations was reflected in the monthly labor market reports of the employment office managers, the quality of which has improved steadily since the reorganization.

The specific type of reorganization effective in New York City may not be applicable to other types of administrative agencies or to employment services elsewhere, since the New York City metropolitan region and its labor market have extremely unusual characteristics. The distinctive features of the New York City labor market—a concentration of various groups of employers in different parts of the metropolitan area, all served by an efficient system of public rapid transportation—made it desirable to set up two different sets of offices for functions that had formerly been handled by one. Convenience to both the applicant and the employer in the placement activities and convenience to the applicant in the insurance activities were decisive factors.

This reorganization was dictated by the results of a careful economic and administrative survey, which pointed clearly to the form of organization that would realistically meet the needs of the New York City labor market. Only by carefully weighing the various economic and social factors involved along with those that are generally considered administrative could the reorganization of the Employment Service in New York City have been successfully accomplished.

The Neutrality of the Public Service

By DAVID M. LEVITAN

War Production Board

THIS war has clarified many prevailing conceptions. A conflict of ideas and faiths necessarily brings into question much of what has been accepted lore. This is, therefore, an especially appropriate time for a reexamination of some of the traditionally accepted notions concerning the proper role of the public servant under a party system of government. The author proposes to examine the prevailing conception of the proper political behavior of the public servant; to state some of the pitfalls which accompany the present notion; and, finally, to suggest the beginnings of a code of political behavior for the public servant.

It is generally stated that the civil servant must adopt an attitude of impartiality toward the conflicting philosophies of government espoused by the various political parties. This attitude has been termed the doctrine of the neutrality of the public service. Two propositions are usually implied by this statement: first, that the public servant must abstain from any participation in the affairs of political parties while retaining the right of private discussion of political issues and of voting as he pleases; and second, that he is ethically and morally bound to administer the policy decisions of whichever party happens to be in power with equal zeal and determination. As to the former theory, it is recognized that, while the official under the American system is also a citizen and consequently entitled to the rights of a citizen, he may legitimately be deprived of the freedom to participate in the affairs of political parties. That limitation is simply a condition of employment. As to the second, it is open to question whether it can or should be applied in full vigor.

The development of the war program with the resulting expansion of the role of the federal government has dramatically illustrated the need for the establishment of a genuine career service in the federal government. The development of a career service necessitates a clear definition of the code of conduct of the career employee toward his political superior under our system of party government.

Foundations of Career Service

THE elements which together constitute the foundation of a career service have been fully discussed elsewhere; some will be restated here. A career service must provide that entrance into the service shall be based wholly upon merit, without any regard to political considerations. Also a career service must provide for permanence of tenure during good behavior and satisfactory performance and for an opportunity for promotion to the very top of the administrative hierarchy, exclusive of positions involving policy determination. It is clear that if political parties are to comply faithfully with the spirit of these rules, the employee must refrain from participation in party affairs and, moreover, must adopt an attitude of neutrality regarding the policy decisions which he is called upon to execute.

It requires little imagination to visualize the effect of employee participation in political affairs. Surely one could not expect a department head to place complete trust in an employee who in effect worked

against his entrance into office or who worked for his removal from power. Aside from the personal antagonism which would arise, it would be natural for a department head to nourish at least a suspicion as to the employee's zeal in carrying out his orders and possibly a fear of sabotage by the employee. Nor is it enough that the employee be barred from actual political participation. Rather it is the supreme duty of the public servant in a democracy faithfully and zealously to administer the decisions of the administration in power so long as he remains in his position. That is simply the basic requirement of loyalty to a superior. The public servant in a democracy has, however, an additional obligation of loyalty. It is the duty of every citizen in a democracy to abide by the majority decision. Surely the public servant, the employee of the citizenry, has no special prerogatives giving him the privilege of disregarding the decisions of the majority.

Admirers of the British public service point with great pride to the record of complete impartiality, devotion, and loyalty of the public service to the Labour party during its tenure in office in spite of the fact that most of the higher civil servants were, by temperament and orientation, devotees of the philosophy of the Conservative party.[1]

> . . . the British civil servant is famous, not in this country alone, for the zeal and ability with which he carries out the policy of the government in power, whatever it may be, and for the success with which he represses his personal feelings and opinions inside and (where necessary) outside the conduct of official business. . . .[2]

The writer agrees thoroughly that members of the public service must abstain from political participation and are bound to execute with loyalty and devotion the policies of whatever party is in power—to effect the majority will. Civil service rules, the Hatch Act, and other statutes and regulations have sought to incorporate the first of these conditions into law.

Because of the long history of political participation in the United States, especially by the higher administrative personnel, it was well for students of administration to stress the importance of the neutrality of the public service. Today there is a distinct and urgent need for a change of emphasis. There is a vital necessity, especially among the groups in the lower level of the hierarchy, for a renewed devotion to political ideas and for an infusion of a spirit of dedication to ideals and concepts. The aim is not to make political debating clubs out of "stenographic pools" but to avoid the decitizenation of hundreds of thousands of Americans.

Nor is this merely a wartime need. The war has simply made the need more apparent and more urgent. In this connection it is necessary to distinguish between two groups of employees. One group, especially among the clerical and lower administrative series, lacks ideological identification altogether. A second group, among the professional and higher administrative series, may have strong ideological identification but may become impressed with the need for repressing feelings and beliefs inside and outside of official business. The continuous emphasis on the neutrality of the public service has resulted in the development of an attitude of ideological indifference among a great portion of the public service. This in turn is conducive to the development of a bureaucratic mentality, to a complete absorption with "administrivia," and to a total divorcement from the basic philosophical, social, and political controversies behind the decisions which the public servant is called upon to execute.

Education in Citizenship

It is all too probable that the civil servant whose work does not bring him directly into touch with the broader questions of policy will develop just such an attitude of in-

[1] Hugh Dalton, *Practical Socialism for Britain* (George Routledge & Sons, 1935), pp. 11–14.

[2] H. E. Dale, *The Higher Civil Service of Great Britain* (Oxford University Press, 1941), p. 46. See also Herman Finer and others, "The Administrative Class: Past and Future," 2 *Public Administration Review* 259-265 (1942).

difference. The typical person, it must be acknowledged, is not a political theorist; his limited thinking about ideological questions of a political nature arises only in the course of the discharge of his duties as a citizen, especially his participation in elections and his discussions of politics as they affect his immediate environment. The government employee in Washington is to a large extent deprived of the former outlet since few Washington employees of the federal government have an opportunity to vote. Some states do not permit absentee voting, and in those that do the procedure is cumbersome. Probably only a small percentage of government employees living in Washington exercise the right of suffrage.

The political discussions in which Washington employees participate, moreover, are not usually discussions of local community affairs as they affect people in their capacity as citizens but discussions among government employees of political affairs as they affect personal power and prestige or conditions and terms of employment. The unions of government employees tend to be more limited in their objectives than other unions, and preoccupation with these limited objectives tends to narrow the political and social consciousness of the government employees.

Consequently there is today an urgent need for a program of ideological education of government employees. It is true that the general program of "selling democracy," which is directed to the population as a whole, also reaches civil servants. That effort, however, is not sufficient, chiefly because the need is much more acute. A civil servant in a democracy cannot properly discharge his duties and responsibilities unless he has a firm appreciation of the meaning of democracy, of the dignity of the citizen, and of the concept of being a servant of the people. Some special effort is needed to convince employees in lower-grade positions detached from policy considerations and employees concerned largely with technical or professional considerations that their positions were established for the purpose of extending service to the people. It is hard for accountants or classification experts to appreciate sufficiently the part which their specialties play in the total complex machinery of public service. Such an appreciation must be our objective.

A great injustice is being committed against the public servant. The role of aircraft workers, tool- and diemakers, longshoremen, and other war laborers has been dramatized, and an effort has been made to develop in them a sense of identification with democracy, with the great ideals for which we are fighting. A failure by a stenographer in the priorities division of the War Production Board to get out in time a certain form or letter could paralyze an important segment of the war effort. Yet no real attempt has been made to make that employee fully conscious of the importance of his or her role and of the employee's responsibility in this struggle. The employee who appreciates the significance of the world struggle, and who is made proud of his role in it, will find new meaning in pounding the typewriter, operating office machines, or processing priority forms. It is remarkable in this connection that, with the spread of emphasis on training, nowhere does one find a general elementary course directed to an explanation of our system of government. Training courses are devoted to an explanation of the procedure of processing forms, to improving one's public speaking technique, or to developing an excellence in shorthand, typing, and operating office machines. This sort of training and job preparation, while very significant, totally overlooks the importance of the intangible and psychological factors which profoundly influence the employee's performance of his daily duties.

It is particularly necessary to adopt a program for the education of employees in the lower grades of the civil service regarding the policies and objectives of the agencies for which they work if we are to maintain in the American public service free oppor-

tunity for advancement from the lowest positions to the highest ones. Unless some special measures are taken, it is impossible to expect a person whose work is completely routine to acquire a broader point of view and the sense of responsibility that is necessary in the higher administrative positions. There need be no conflict between an educational program designed for this purpose and an attitude of impartiality between the political parties. Once Congress and the president have set up an agency to accomplish a certain purpose, we can properly expect its employees to be officially neutral as between political parties, but we should not expect them to look with equal favor on those who wish to accomplish the agency's purpose and those who wish to distort its purpose for party or group advantage.

The lower grades of the civil service, in short, are as urgently in need of "indoctrination" courses as are persons who are inducted into the armed forces and for the same reason, since by their effort they are contributing to the general victory program of the nation.

The higher grades of executive personnel, including administrative officials in the $4,600 per year range and up, are more closely concerned with matters of policy. Hence, it is even more necessary not to subject them to an indiscriminating interpretation of the doctrine of political neutrality. It is important to make a clear distinction between neutrality as applied to political parties and neutrality as applied to policies and principles.

Political Principles

All members of the public service must abstain from participation in party affairs. The same rule should not apply as to political principles. It is neither realistic nor advisable to expect the higher public servant to remain totally unconcerned with the political philosophy that he is called upon to administer. Is the public servant to be less militant, less honest about his political principles, than the normal citizen? Is the public servant expected to develop a split personality—to be one man in thought and belief and another in action as the administrative agent of political superiors? It is well recognized that people do their best only when they have genuine interest in and enthusiasm for their work. That enthusiasm can come only when they are engaged in work in which they genuinely believe.

The doctrine of neutrality was developed in England at a time when the chief basis for distinguishing different administrations was the name of the party in power, when the functions that were to be performed were generally accepted, and when all members of the civil service were assumed to have a right to life tenure. These conditions do not prevail in the United States, at least with respect to the work of some agencies, and during the past twenty years the difference in philosophy between the major parties in Great Britain has led even some British authorities to argue that neutrality is out of date. The complete doctrine of neutrality is an anachronism and a fiction which may well be discarded. It is based on misconceptions regarding the meaning of the professional attitude, regarding the nature of the science of public administration, and regarding the role and behavior of the higher civil servant. Even a career public servant, steeped in the tradition of neutrality, confessed that the public servant "cannot accomplish that remarkable feat always and entirely [repressing his personal feeling], though he will always attempt it and never consciously fail in the attempt." [1]

As the functions of government spread into more controversial fields and as pressure groups and sometimes parties differ over specific programs, the *modus operandi* of the doctrine of political neutrality has been destroyed. Students of administration have emphasized the growth of the professional spirit among members of the public service and the influence of this develop-

[1] Dale, *op. cit.*, p. 46.

ment on the issue. They have pointed out that the professional spirit, the feeling that one is a member of a public service which transcends loyalty to any group, contributes to removing the public servant from the controversies of the market place. They have pointed out that it is part of the professional code of the career public servant thus to detach himself, that the civil servant must recognize that in a democracy policy decisions rest with the chosen representatives of the people, and that the role of the professional servant must be limited to the execution of these decisions.

In this connection it is interesting to note Professor Carr's statement in his recent and highly challenging book, *Conditions of Peace*,[2] regarding the role of the civil servant in the modern state.

> The second and cognate cause of the decline in the reality of democratic rights has been the growth of bureaucracy. This is a symptom and consequence of the assumption of new functions by the state. To deplore or denounce it is futile; for the new economic functions of the twentieth-century state cannot be abandoned, and cannot be performed without a vast and complicated administrative machine. . . . As early as 1906 the German sociologist, Max Weber, wrote of this "new bondage", . . . The problem is twofold. In the first place, the House of Commons can no longer either discuss and criticise intelligently much of the highly technical legislation which it has to pass, or exercise even the most remote control over the processes of administration. Ministers are more dependent on their permanent civil servants than at any previous period, . . . By force of circumstances, the bureaucrat and the specialist have very largely supplanted the minister and the member of Parliament as the managers of public affairs. Secondly—and as a corollary of this development—the ordinary voter is less able than ever before to feel that he is living under a system which makes him one of the governors as well as one of the governed. . . .

This analysis calls to our attention a serious trend, yet while the trend is inevitable the resulting situation is not. A public service highly conscious of its democratic responsibilities and in tune with the political philosophy of the administration in power will do much toward the reestablishment of a "ruler and ruled" identity in the public mind.

In some quarters there is a growing conception of administration as a science in the sense that the principles of administration are universally applicable. Therefore, it is alleged, to the professional administrator it matters little what he administers. The philosophy, the ideology, the end, is immaterial. It is the function of the administrator to apply certain well-established and uniformly valid principles. That surely is too naïve an interpretation of the complexities of the administrative process.

Neutrality of the public official and continuance in office regardless of the administration in power are correct in theory and practice whenever party labels only are at stake and not fundamental policies or philosophies. Nor should an attitude of indifference, whether dignified by a label of professional spirit or not, be encouraged in the upper administrative corps even if it could be established. Men should not continue or be continued in positions where they will be called upon to advise and administer policies contrary to deeply rooted personal beliefs. The classic view is that though the career public servant is obligated to press forcefully his point of view to his political superior, yet if the superior insists on following another point of view, the civil servant must obey and is apparently expected to remain in his position and administer the decision.[1] Yes, obey he must as any other citizen simply because the decision is that of his government; but if it is a major decision and involves a major point of difference, then the civil servant should not remain responsible for the administration of that decision. He cannot fully execute that policy, and he should not be expected to. Naturally, this assumes that the civil servant has not been won over by his superior's logic and point of view—just overruled. There can be no objection to the employee's continuance in his position if he accepts the philosophy he is to administer.

[2] Edward Hallett Carr, *Conditions of Peace* (Macmillan, 1942), pp. 28–29.

[1] Finer, *op. cit.*, p. 261.

In an analysis of this problem it is important to bear in mind the role of the administrative personnel, other than the political heads of the agencies, in the administration of any program. Recent legislation provides for a great deal of administrative discretion throughout the whole administrative process. The administration of any large program gives rise to a great deal of what is commonly referred to as administrative interpretation even after the major policy decisions have been incorporated into the basic legislation and the political department heads have announced the over-all decisions. Through the use of such terms as "administrative interpretation" we tend to confuse and cloud the nature of the problem. The decisions and interpretations, though related to questions arising in the course of day-by-day administration, often have an important bearing on the program as a whole.

The attitudes and points of view of many officials often become apparent in the course of making what appear to be purely administrative decisions. To cite but one example, the case of procedure writers in the Railroad Retirement Board or in the Social Security Board, who are responsible for establishing the procedures for the registration or adjudication of unemployment claims. Here are a number of apparently simple administrative questions, yet the answer to these may well vary with the inarticulate premises of the employees. Should the procedure for registering a claim be made with emphasis on simplicity and accessibility to every potential claimant or should the emphasis be placed on what is termed "administrative feasibility"? The social attitude of the procedure writer will often determine the place of emphasis. Again, what constitutes "administrative feasibility" in turn depends on whether the official is more concerned with the plight of the unemployed citizen or with the smooth flow of papers.

The policy incorporated in the act or the policy of any board may be very liberal, yet a group of procedure writers may include so many rigid conditions for filing claims, hiding behind the fiction that it is the business of the person concerned to know all the requirements, that a great number of individuals may be deprived of payments although the act and the board intended that they should be compensated. We are not speaking of conscious violations of the spirit of the act but rather of unconscious deviations in the process of making simple decisions on details of administration. Legislation, in short, bequeaths discretion to administrators who, to a degree, are forced to participate in the refinement and restatement of policy. Can they be neutral in this portion of their task?

It cannot be too strongly emphasized that we do not propose a return to the spoils system or a limitation of the civil service system. We have attempted to distinguish between party partisanship and devotion to political principles. The significant matter is not what party is in power—it is the philosophy that is to be administered. Also, since some high administrative positions do not directly involve decisions related to political principles, the incumbents of these positions conceivably need not be concerned at all with questions of policy. In any case, the decision whether to remain in a position should rest with the agency concerned. It is for the employee to search his conscience and to decide whether his political ideology is so strongly at odds with the program that he will be called on to administer as to make it impossible for him to give full, loyal, and zealous service. It is on this question that his professional ethics should be his guide. Can he remain on the job without detriment to the service? Can he continue to discharge the functions of the position effectively? Is he certain of his continued loyalty and devotion to his position? If he entertains any doubt as to the effectiveness with which he can continue to perform his duties then there remains but one course open to him—to step out of that position. It may very often be possible to transfer the employee to a position further

removed from the forum of political controversy. Under any circumstances he must not remain in the former position. Should the disaffected employee choose to continue in his position under the new administration, his superior reserves the right to remove him in case of disloyalty or maladministration, subject to the usual civil service removal procedures.

Conclusion

THROUGHOUT the civil service there is an acute need for a greater realization of the relationship between the administration of government and the broader social and political issues of the day. Some steps should be taken to educate the lower grades of the civil service not only in the general significance of the role of democratic government in world affairs today but in the relationship of their various agencies' programs to general government policy. Such an educational program would not only improve their attitude toward their current work but would make it more easily possible for them to fit themselves for the acceptance of broader responsibilities.

As for the higher administrative hierarchy, the search for absolute political neutrality is a quest for the impossible. There is still a need for political impartiality insofar as it concerns party participation. On the other hand, there is no need for a complete detachment of attitude toward the controversies of the public forum; such an attitude is not proof of the development of a professional outlook. It is time to stop pretending that it is a sign of a broad perspective and long-term vision to close one's eyes to controversies of the day simply because in the long evolution of mankind many of these have been automatically resolved by lapse of time and change of conditions. It is not a sign of vision or objectivity to detach oneself from the controversial problems of the day—such aloofness rather manifests a refusal to discharge one's obligation to his fellowmen, if not a lack of moral strength. Nor is it true that the scientific method requires concern only with questions removed from the arena of controversy—that it is impossible to investigate scientifically questions which are under public debate.

It should not be assumed that the public servant should concern himself with every issue that becomes the basis for public debate. There is need for a sense of evaluation and a capacity to distinguish the basic from the temporary. The public servant in an executive position must not permit himself to develop a sense of detachment from fundamental current controversies. As a citizen he is, of course, bound to obey the decisions of the government in power. He should not, however, continue as an instrument for the effectuation of those decisions if he finds himself completely at odds with the philosophy underlying them. He, like all citizens, must reserve the right to protest against policies which he considers detrimental to the public good even at the expense of resigning from public service.

Some line must be drawn between the two extremes of participation in party squabbles and cynical detachment from all personal interest in national policy. Perhaps the line may vary according to the nature of the various programs and the jobs themselves, but certainly the higher administrative official, even though he may be willing to adjust his general purposes to the judgment of his political superior, should not be required to adopt an attitude of indifference to the purposes themselves.

Selecting a Medium for Written Instructions

By W. S. HARRIS

Farm Credit Administration

THE individual letter, the circular letter, and the revisable manual are the three most common media used in transmitting instructions, rules, and regulations within administrative agencies. Each of these forms is advantageous in several respects, but the most important measurement of their relative efficiency depends upon the ease with which they may be referred to in the future. A problem that often faces an administrator is the selection of an instruction form that will save the time and energy of his subordinates in referring to his agency's instructions or regulations.

The perusal of instructions and regulations when they are first issued is only the beginning. Important instructions are referred to many times by many persons. Unless such instructions are in the best possible form, both executive and clerical personnel waste a great deal of time and energy searching through partially "dead" records and correspondence for the desired administrative rulings.

If an opinion poll could be taken of all individuals who receive and must observe written instructions on the question of whether or not they are satisfied with the form in which they customarily receive those instructions, the vote would probably be preponderantly negative. The circular letter, for example, is commonly abused by being kept in use long after instructions have become so numerous and complicated that they should have been compiled into a manual. After instructions issued in circular letter form have been supplemented, amended, or deleted in part or in whole by other circular letters, it is difficult to comprehend the subject at any one time without extensive reading and rereading and arduous mental compilation of a multitude of fractional parts. Only a few experts may know what the rules are and how to find them, and even in the minds of the experts there may sometimes be a question as to the extent to which early regulations have been superseded by later versions.

Objectives and Criteria

IT IS the task of the administrator, therefore, to select the proper form of distribution for each individual instruction sent out. The goal sought is a well-balanced use of the individual letter, the circular letter, and the revisable manual to gain the special benefits of each.

The administrator will make his decision, primarily, by weighing the characteristics of the instruction he is about to issue. Is it of limited or of general applicability—that is, does it apply to all members of the institution or to only a few? Will the instruction be used for only a short period of time, or is it of permanent nature? And, most important, considering both the number of persons who must use it and the length of time it will be used, how often is it likely that the instruction will have to be referred to? The criterion of ease of reference is most significant in the efficient administration of written instructions.

What is ease of reference? A document, or a group of documents covering a given subject, has greater ease of reference than another if it can be referred to with less energy and time. Ease of reference depends largely on four factors:

(1) Ease of identification of the unit (e.g., letter or regulation) and its fractions
(2) Availability of copies
(3) Assurance of completeness of the set (or subject chain)
(4) Accessibility of subject

The first of these, ease of identification, can be attained by a concise system of enumeration. A serial system enables one to ask for an order briefly and definitely, thus: "Please send me FED 320." The benefits of concise and positive identification are many. The work of identifying is as common as reading and writing. Conversation, correspondence, circular letters, and manuals contain references and are the subjects and the objects of reference. In small quantities, but in quantities nonetheless, energy and time are saved in speaking, thinking, and writing when ease of identification is attained.

The second factor is an obvious one: an order cannot be readily referred to if copies of it are not available.

Serialization, besides aiding identification, makes another contribution to ease of reference by automatically indicating whether the set of orders is complete. Only too often it is necessary to review all instructions in the set or subject chain in order to isolate a given subject. Instructions that are not serialized may waste energy and time by failing to show that the subject chain has been completed. The search for instructions on any subject is restricted to a narrow area if a serial system distinguishes the number of units to be examined.

The location of the subject matter of an instruction, of course, is the final object of the search. When a subject is easily accessible, it is possible to go to it with minimum expenditure of time and energy and to make sure that one has all the necessary documents bearing on it. What methods are used in referring to a particular subject?

If the total number of units among which one unit is to be sought is limited, one may simply look through all of them. It becomes impossible to do so when the number of units involved becomes too large. Then one of three devices may be adopted to expedite the search for a subject:

(1) List of subjects
(2) Alphabetical subject index
(3) Logical organization of subjects

A list of subjects eliminates manipulation of the letters themselves and also extends the effective range of the set. Its use reduces the energy and time spent in search. An alphabetical subject index is a subject list which makes each subject accessible by giving it a fixed position. The subject may be found in its alphabetical order, followed by its fractional parts. Thus, for example, a subject index not only alphabetizes the subject "Loans" but it organizes all subdivisions of the subject, such as "Loans to irrigation companies," in such a way as to limit search.

The third device for locating subjects, the organization of the orders or regulations themselves according to subjects, also fixes the position of subjects and concentrates their fractions. But it does more than arrange the titles of the subjects in order; it aranges the substance of the subjects—the regulations themselves, and their fractions—in logical order. All the instructions on a given subject, therefore, when buried in a multitude of other instructions, will be accessible only if some systematic method of indexing or arrangement is provided, and logical organization of subjects is often the best available method.

Of the four factors of ease of reference, accessibility of subject is the most complicated and difficult to attain. All four, however, are important and determine to a high degree the efficiency that comes from the proper employment of the individual letter, the circular letter, and the revisable manual. An analysis of each form will illustrate its proper use.

The Individual Letter

THE individual letter can be positively identified only by listing its date, subject, addressee, and signer. The fractions of the

individual letter are its paragraphs. The use of numbers to identify the fractions of the letter—its paragraphs—has been prevented by polite usage and by the necessity of retyping all of a letter of several pages in order to renumber the paragraphs if one paragraph is deleted.

A major disadvantage of the individual letter as an instruction form is its limited availability. Hardly more than ten carbon copies can be made at a single typing. The relative difficulty of acquiring assurance of completeness of a set or subject chain of individual letters is another disadvantage. In practice, one must rely on the correctness of the central files record.

The individual letter suffers also when judged with relation to the factor of "accessibility of subject." Visual check of a collection of individual letters is feasible only for a small number. This method of search is fairly efficient if it is first possible to narrow the documents to those on one subject, but it is absurd to suggest reliance on visual check for isolation of a given subject from thousands of letters. A list of subjects can be used with individual letters to eliminate to some degree the manipulation of the letters themselves and also to extend the effective range of the set. Its use will reduce the energy and time spent in search. In the main, however, the individual letter depends on the central files subject index for accessibility of subject. Lists of subjects may play their part, much as does visual review, for detailed searching within the limits of the subject chains, but the accessibility of a subject really depends on the accuracy and completeness of the subject index of the central files.

The individual letter, however, is more efficient for certain uses than the circular letter and the revisable manual. For greatest efficiency in the instruction system as a whole, the individual letter should be used for the mass of correspondence of question-and-answer, temporary, day-to-day nature; for personal correspondence; for special emphasis and confidential exchanges; for statements of individual rules, and exceptions to, and special modifications of, general rules. It is properly used for all types of statements applicable to only a very few individuals.

The Serial Circular Letter

THE individual letter has lost ground to the serial circular letter as the vehicle for more or less permanent instructions which will be referred to a great many times by a great many people. The reason is the superior ease of reference possessed by the serial circular letter. It should, if anything, gain ground faster. Undoubtedly, the first form of circular letter was a single copy that circulated from one person to another. Its mechanically duplicated modern successor presents itself in a multiplication of copies, an individual copy for each recipient, in order to avoid the delay incident upon circulation of a single copy.

The circular letter exists in two forms: the simple circular letter and the serial circular letter. The advantage of the simple circular letter over the individual letter lies in the fact that it is usually mechanically duplicated, making copies more easily available. Serialization, however, gives the circular letter still more advantages.

In analyzing the qualifications of the serial circular letter with respect to the four factors of ease of reference, it is first noted that it can be positively identified in the minimum number of words by its serial number. If its paragraphs are numbered, as they should be, they may also be referred to with maximum brevity and exactness. Even the revisable manual can only equal, not exceed, the serial circular letter in ease of identification.

The serial circular letter, of course, is characteristically set up in print or near-print, which has made the per copy cost low. An abundant number of copies can be distributed and a central stock of each issue can be kept. A serial number assigned to each circular letter provides an easy means of automatic notification of completeness of

the set. If the last serial number is 750, it is obvious that 750 circular letters are needed to obtain a complete set.

The weakness of the serial circular letter lies in the fact that it does not make subject matter accessible enough. It is extremely difficult to fix the position of each subject and more difficult to bring its fractions together near it. As long as the number of circular letters is small, reliance can be placed on visual check and a list of subjects. However, as the units multiply, it is necessary to construct a thorough subject index by years, quarters, months, and current issue. Logical organization of the subjects has also been attempted, but because it is cumbersome and difficult when applied to a series of letters, it is seldom thoroughgoing, and the subjects are usually not organized with respect to their subdivisions.

The circular letter series should be used to screen out and hold separate from the mass of individual letters statements of general applicability. The serial circular letter is appropriate for all instructions that will be widely used, whether or not they are referred to frequently and are to be permanent. However, when permanent instructions that are generally applicable and frequently used become numerous, the revisable manual form should be used instead. In other words, do not use the circular letter series too long. No rule-of-thumb quantity of letters can be stated to be a "numerous" quantity, but the fact that visual check with the help of a list of subjects no longer will easily locate a given subject should be an indication that something is wrong. If the circular letter system must be drastically modified, or a detailed subject index prepared, it should be abandoned. At that point permanent instructions should be segregated and logically organized into a manual. Thereafter, in company with the revisable manual, the serial circular letter form has its necessary part to play in efficient administration of instructions. The division of temporary and permanent instructions between manual and letter system should be continuously observed.

The Revisable Manual

A REVISABLE manual should be in loose-leaf form to permit the ready insertion or extraction of pages. The "unit" here is the manual, and the "fractions" are its paragraphs. The revisable manual is identified by name. Paragraphs and subparagraphs are identified by reference to the members of the organizational outline (chapter, subchapter, section, and subsection) or to paragraph numbers. If each paragraph is numbered consecutively, any subject and its subdivisions can be concisely referred to by section (paragraph) number; for example, "Please refer to section 210 of the Manual for Federal Banks."

The revisable manual can enjoy the benefits of being universally set up in print or near-print, which will make it and its revisions cheap and abundant. Maintenance of a central stock will permit the original manual and back issues of revisions to be currently available at all times. Numbered pages make it simple to tell whether or not the manual is complete. If revisions have been made since the manual was issued, it will, of course, be necessary for the holder to acquire every one of them. Here again he may be sure that the set of revisions is complete if he knows the last serial number in the revision series.

Subjects can be made virtually perfectly accessible in the revisable manual if they are logically organized. Visual check, list of subjects, and the alphabetical subject index are of subordinate importance. Organizing the instructions themselves in logical sequence according to subjects gives a fixed position to each subject and brings together subject fractions. Group headings are a further help by bringing broadly related subjects together under descriptive unifying headings. And last, a logical pattern for the group headings arranges them in a manner that will facilitate reference. Stability of subject position, so rare and at such a premium in

the serial circular letter form, is thus easily obtained in the manual by giving a subject a fixed position in a logical and systematic organization.

The logical organization of subject fractions is usually feasible only in the revisable manual. If any one feature of the revisable manual were to be chosen as the most valuable and indispensable, it would be this feature. It does away with the complex problem presented by, let us say, six circular letters each supplying a fraction of the subject common to all and at the same time amending, adding, and deleting the fractions contained in the others. Organization of these six letters into a revisable manual brings together the subject as a whole, each part in proper relation to the other parts and to the whole, and it does so once and for all. Students must juggle the six circular letters mentally many times if they wish to achieve and retain an orderly and complete comprehension of the subject distributed throughout them. The value of logically organizing the fractions of a subject under the unit subject cannot be overstressed.

By arranging group, subject, and fraction headings according to the most logical sequence, search is localized and attention to detail is reduced. Any scheme, relationship, or pattern that will facilitate location of a given heading may be used. If the headings represent procedures that take place on a time schedule, or progress from function to function, or movement from place to place, this logical relationship should be reflected in a logical pattern of headings. If the headings possess no logical relationship, no logical pattern exists and none can be imposed.

The revisable manual should be used for all "numerous" instructions that also have general applicability and possess a permanent procedural policy or technical content. It must be referred to frequently. After original issue of the manual, of course, it may be revised in order to drop instructions which proved to be of only temporary nature, thus maintaining the separation between permanent instructions in the manual and temporary instructions outside the manual proper. Compilation of serial circular letters into the logically organized revisable manual should be the next item on the agenda of many administrative units in government.

Reviews of Books and Documents

Full Utilization of Manpower

By R. Burr Smith, War Production Board

WARTIME TRANSFERENCE of LABOUR in GREAT BRITAIN. Series C, No. 24 of Studies and Reports by the International Labour Office. International Labour Office, 1942. Pp. vi, 163. $1.00.

THE potential power of any nation to wage modern warfare is finally limited by the size, skill, and utilization of its total population. Germany and Great Britain have already reached a stage wherein manpower is the most critically short material of war. As our industries swing into the all-out production of armaments and our military forces make enormous claims on the young men of the nation, the problems of distributing and utilizing human resources with maximum effectiveness assume an importance in the United States fully equal to the more generally recognized problems of material resources. In the effective solution of these problems much can be gained from the prior experience of other nations.

The International Labour Office has published a series of studies of wartime manpower problems and policies, of which the *Wartime Transference of Labour in Great Britain* is the latest. The current study is an excellent, detailed summary of an important aspect of British manpower policy; it does not pretend to cover the broader policies and procedures dealt with in previous studies, of which it assumes a working knowledge.

In a period of less than three years, the economic demands of war have necessitated the shifting of four to five million persons from their homes to war work in other parts of Great Britain. Hundreds of thousands of persons never before employed have been drawn into the labor force, trained, and placed in essential jobs. Limited resources of skilled workers have gradually been shifted and spread out so that their skills can be used to the best advantage.

During the three-year period covered by the study, government control over the employment and utilization of labor has gradually developed and extended until it now applies in greater or less degree to every employable man and woman in the country. With the final pattern of controls now generally set, it is possible to attempt a summary of the more important factors in British experience which may assist the United States in coping with similar problems.

The imposition of wartime government controls and limitations over the customary rights of the individual employer and employee involves an interference with fundamental democratic principles of freedom of choice central to our whole economy. To be effective, such controls must rely upon willing acceptance by all people of all groups, not upon the amount of compulsion contained in the administrative provisions. Mandatory powers, as stated by the Minister of Labour and National Service, must be kept in reserve "as sanctions in the background." Free labor will out-produce slave labor only so long as it feels itself free.

This principle has been the foundation of British policy. "The Government was anxious to rely first and foremost on joint action by employers and workers in the industries concerned and to cast itself in the role of a directive agent, using persuasion where possible, pressure where advisable, and compulsion only where necessary." Analysis of the actual administration of British controls over the transference of labor proves that this statement was not merely a pious expression of hope. From the beginning of the war through 1941 only 151 individuals and fourteen firms had been prosecuted for infringement of Ministry of Labour directives.

British success in obtaining the voluntary acceptance of its manpower policies by management and labor alike has resulted from the

clear recognition of "the futility of speeding the evolution of labour supply policy at the expense of the understanding, acceptance and participation of labour and management in the execution of the policy."

The obtaining and maintaining of a "co-operative will" in Great Britain has not been any easy or short-term task. Success has demanded a gradual evolution of controls from the voluntary work registrations of the early war days, through restrictions on the labor market, and finally to directives to the individual employer and worker. Each step was adopted only after full discussion with and acceptance by management and labor.

Early experience proved that the acceptance by labor of the limitations and hardships involved in directed work depended upon a full proof of necessity and equality of sacrifice. The acceptance of compulsory transfer of labor to war plants, for example, was dependent on proof that management in those plants was using skilled labor effectively.

Similarly and of even greater importance, the imposition of compulsory government limitations on the individual's economic rights has been balanced by a full assumption of responsibility for the protection of those rights by the government. The process by which plants are "scheduled" under the "Essential Work Orders" shows this clearly. In a "scheduled" plant, management cannot fire and workers cannot quit without government authorization. However, before a plant is scheduled, a careful government inspection is made to determine the fairness of the wage scale, working conditions, and personnel policies, the maintenance of which is thereafter guaranteed. Similarly, in a scheduled plant the government assumes responsibility for absenteeism and the maintenance of labor productivity.

Unquestionably the careful regard of the British government for the necessity of obtaining public acceptance of and confidence in each successive step in the development of manpower policy has at times slowed industrial mobilization and has resulted in a complex piecemeal development of administrative procedures. However, the loss of production which would have resulted from a failure to obtain voluntary cooperation, as stated by the Minister of Labour, "would have been immense if not irrecoverable."

From the outbreak of war until the spring of 1941, the transfer of workers to essential work was accomplished through the operation of voluntary incentives rather than government direction. The deferment of men in essential occupations from military service automatically resulted in a considerable shifting of labor to expanding wartime industries.

Higher wages in many of the expanding war industries similarly attracted additional labor. Wage differentials in Britain, as in this country, have not been an unmixed blessing. Some essential occupations, particularly shipbuilding and mining, were poorly paid. Thus, while wages often proved an incentive to transfer, in other cases wage differentials have proved an extremely serious handicap to the necessary redistribution of labor.

An indirect result of the cessation of many imports and the redistribution of materials was a considerable shifting of labor to war industries. The shifting was given some direction through government campaigns aimed at persuading workers to take positions in war plants rather than drift into nonessential industries.

By the end of 1940 the growing volume of war production and the demands of the military services on manpower necessitated a more accurate and effective direction of labor to war tasks. Three prerequisites to an orderly redistribution of labor were recognized: full information concerning individuals, widespread employment controls, and a system of labor priorities for particular industries and firms.

Beginning in March, 1941, the government began to develop machinery for the direct organization of worker transference. Full information concerning the labor force was obtained through the registration of men and women, with subsequent personal interviews to determine their availability for transfer. General registrations by age groups were supplemented by special registrations of persons possessing particular skills which were critically short. As a result of interviews, individuals are directed to positions contributing more immediately to the war effort and utilizing more fully their skills.

The direct method of transferring labor to essential industries has been supplemented by special schemes for the shifting of workers adapted to conditions in particular industries

and occupations. The concentration of production in nuclear firms in some fifty industries has also been directed primarily at the release of labor for essential undertakings. The releasing of labor through the standardization and simplification of products has been attempted with indifferent results.

The Ministry of Labour and National Service has recognized clearly the special problems involved in the recruiting of women for the labor force. Briefly these problems may be summarized as follows: (1) the development of an effective campaign to "sell" women on the need for their services; (2) careful timing so that women are not urged to seek work until jobs are actually available; (3) specialized training suitable to persons completely inexperienced in organized plant work; (4) training of personnel managers and supervisors in handling of women; and, (5) extreme care in handling "hardship cases." The government deliberately proceeded slowly and carefully in drafting women into the labor force, for, as stated by the Minister of Labour, "at no point could you turn the people against the war effort more easily."

Another prerequisite to effective transfer of labor was the establishment of employment controls. The first step in this direction was to place the hiring of most war workers under the immediate control of the employment exchanges. By this method available workers were sent to the most urgent jobs and less essential employers were limited in their ability to obtain labor.

More detailed controls were established by "scheduling" plants, under the Essential Work Orders previously referred to. By this technique turnover of labor was limited in the most vital plants to those shifts directed by the Ministry of Labour. In the chemical, iron, and steel industries, the principle of "scheduling" has been further extended by the "ring fence" technique to provide a practical guarantee by the government of a stable labor force with the intra-industrial labor transfer under industrial control.

The effectiveness of this machinery for stabilizing the labor force of vital plants is, of course, dependent on a workable system of occupational deferments. At the outbreak of war the British government realized the urgent necessity for protecting skilled labor forces from haphazard withdrawal into the armed forces. By placing both military and industrial manpower requirements under the Ministry of Labour and National Service, a fair and impartial treatment of these competing claims on the available supply of labor has been obtained.

Labor priorities are determined nationally by a committee composed of representatives of the Supply Departments and the Ministry of Labour. On the basis of information received from regional representatives of the Supply Departments and of the Ministry of Labour, labor preference lists of firms are established. The requirements of these firms are filled, if possible, within the region in which the firms are located; if not, they are circulated nationally. Particularly urgent requirements for the filling of key vacancies may be given a "bottleneck priority," in which case preference is given over all other vacancies.

For the purpose, particularly, of directing the transfer of women, and also for the distribution of contracts, the nation is divided into four types of area; scarlet areas, where an absolute shortage of women workers exists; red areas, where the supply and demand of women workers is balanced; and green and amber areas where a surplus exists. This division permits forward planning for labor transfer and production scheduling.

The accurate determination of labor priorities necessitates close coordination between the Supply Department and the Ministry of Labour. It is not possible from the data presented to assess the effectiveness of this coordination, but other sources indicate that a considerable proportion of the labor transfer problem could have been avoided in Britain if more careful consideration had been given to labor in the issuance of supply contracts.

Among the many factors which have limited the wartime transfer of workers in Great Britain, perhaps the most important has been "the financial loss frequently involved in transfer from one job to another and from one area to another." In view of the wide differentials in wages existing both within and between industries for comparable work and the personal expenses involved in transfer, adjustments have proved necessary.

Adjustment has taken two primary forms. The scheduling of plants under the Essential

Work Orders has resulted in a considerable equalization of wages for similar work. Secondly, the government has undertaken to pay allowances to cover additional expenses incident to transfer, such as traveling and moving expenses, cost of maintaining two domiciles, and loss of wages while transferring. It is also paying reasonable wages for training periods necessitated by transfer.

The transfer of millions of workers from place to place to meet the demands of war industry has also necessitated the assumption by the government of considerable responsibility for the provision of adequate housing, feeding, medical, educational, and recreational facilities for the transferred worker and his family.

The essential machinery for government direction and control of the transfer of labor thus appears to have been completed in Great Britain. It should be clearly recognized, however, that the job is never done. Transfer of labor is always taking place with changes in industrial processes and shifts in strategic demands for the matériel of war. To meet these changes, flexibility and adaptation of the machinery of manpower administration are constantly necessary.

Every public administrator concerned with the manpower problems now before this country should view carefully the British experience set forth in this study. The United States no less than Great Britain must solve the complex and difficult problems involved in the mobilization of manpower in a manner consistent with the democratic heritage for which we are at war.

Executive-Administrative Power and Democracy

By Charles S. Hyneman, United States Bureau of the Budget

DEMOCRACY, EFFICIENCY, STABILITY: AN APPRAISAL OF AMERICAN GOVERNMENT, by ARTHUR C. MILLSPAUGH. Brookings Institution, 1942. Pp. x, 522. $4.00.

ADMINISTRATIVE REGULATION: A STUDY IN REPRESENTATION OF INTERESTS, by AVERY LEISERSON. University of Chicago Press, 1942. Pp. xiii, 292. $3.00.

PEOPLE do not go to war for the pleasure of fighting nor for the satisfaction of winning. They fight, and fight to win, in order to make sure that something which they value will take place when the war is over. It is unlikely that the present generation of American people will find a more satisfactory explanation of why we are in this war than the one that the last generation gave for being in that war—to make sure that we and like-minded people can have democracy if we want to.

One of the principal tasks of the scholar in any war is to advance the people's understanding of what they are fighting for so that they can better appreciate what sacrifices a victory is worth and so that they can avoid any course of action that would cause them to lose what they are fighting for while the war is on or after it is over. There has been some good work by individuals on this front, but it seems to me that American scholarship as a whole has not done much to guide the American people in this war. They have not been given a good statement of what democracy is; they have not been told what conditions must obtain in our economic and social organization in order for democracy to have a chance of existing in politics and government; they have not been told which of our political institutions and ways of doing things are indispensable to democracy and therefore not to be yielded at any cost lest when one or several of them go democracy goes.

I.

IF SUPPLYING this needed literature is a part of the nation's war program, then Mr. Millspaugh and Mr. Leiserson have enlisted. Mr. Millspaugh tries to find out what democracy means and has meant to the American people, tries to relate our democratic ideals and democratic ways to other things that we value, and seeks to identify the things (states of mind, habits, ways of doing things, institutions) that affect our ability to keep our democracy or improve it. He is concerned with all of American history that he believes to be relevant; he delves into every phase of American life that he believes to hold an implication for democracy.

Mr. Leiserson centers his attention on a much smaller objective—the impact of groups of individuals on administrative policy and administrative action. It is a problem of great significance to the functioning of democracy, and yet it is scarcely more than mentioned in Mr. Millspaugh's book. Surely this testifies to the enormous scope of human relations that must be explored and evaluated in a complete study of our democratic system.

Our writing about the relation of executive and administrative power to democracy has suffered, it seems to me, from our failure to make up our minds on a very fundamental question. Can we outrun attacks on democracy by providing more and more services to the people? A satisfied people do not overthrow their institutions. Can we, by providing more bread and better circuses, keep the people content with their political system? If so, runs one argument, then let us have forward programs of public service efficiently administered. If this can be accomplished only by piling up power in the chief executive and the administrative branch, then pile it up. Some of our literature proceeds boldly on this line of thought, but most men who are inclined to this persuasion embrace it only doubtfully. They are afraid that experience may prove the soundness of a competing proposition.

That other proposition is the long respected one that power must be hedged by power, that men must be checked by men, even at the cost of vacillation and timidity in announcing and executing programs of action. A good deal of our literature endorses this point of view, but much of it is unconvincing because in so many cases the author is half of a mind that it might be wise to shoot the works on a strong man with a program, freeing him from the traditional restraints and gambling on the chance that he will not cling to power when the people have had enough of him.

Some readers may feel that Mr. Millspaugh has not stated his position on this issue with proper emphasis; no doubt a good many readers will feel that he carries his recitation of history beyond the point where it sharpens his conclusions; but surely no one can accuse him of falling between the two propositions which have entangled so many other American writers. Strong men and strong programs are not enough. There are certain ways of doing things that mark the democratic process and these must not be given up. Stability (the ultimate proof that a free people find their government good) is achieved only when adequate programs of public service are provided through democratic methods. Neither efficiency nor democracy alone is enough; stability comes only when democracy provides efficiency. This is the thesis of the entire book.[1]

Mr. Millspaugh hopes by recounting important occurrences in American history to show the close relationship between programs of action (cautious or vigorous), political leadership (aggressive or timid), political procedures and devices (broadly or narrowly based on popular consent), and swings of public opinion (violent or restrained). No doubt he hopes that most readers will find in this recitation of events proof of his own conclusion, namely, that we achieve stability in America only when we steadfastly pursue democratic procedures to ends (governmental programs) that satisfy the people. Whether or not the reader reaches Mr. Millspaugh's conclusion probably will depend less on the author's skill than on the reader's attitude toward his method. Those who believe that history teaches no lessons to even the keenest observer ought nevertheless to find in this book some bits of fact to support or disprove what they already believe.

As one would expect, in view of his previous very substantial contributions to the literature of public administration, Mr. Millspaugh gives considerable attention to the relation of executive and administrative power to democracy and efficiency. At least one hundred pages are pointed fairly directly at this problem. I am not convinced, however, that this book advances our understanding much beyond the point to which it had been brought in other writings including some of Mr. Millspaugh's own. The same cannot be said of Mr. Leiserson's book, however. It supplies our most extended account of the efforts of groups to control administrative action and of administrators and legislators to deal with their pressures. While Mr. Leiserson recounts many a past event, his method is definitely analytical rather than historical. He is unrelenting in his search for the

[1] "The term efficiency is used in a broad sense, meaning promptness, adequacy, and effectiveness in the determination of governmental policies, particularly those that affect national security" p. v.

significance of the materials with which he deals. His style is not an easy one, and his arrangement of materials, in my opinion, can be improved upon; but he has produced a book that gives us a most thoughtful introduction to matters of great importance.

II.

WHERE now do we stand in our analysis of the relation of executive and administrative power to democracy? The function of democratic procedures is to force those who have power to act according to the wishes of the people or give up their power. In Millspaugh's words, "the essence of political democracy is popular control" (p. 5). How effective are the democratic processes which are supposed to subordinate executive and administrative power to the will of the people? Can the people throw out a chief executive who displeases them, or can the chief executive make the people believe they cannot get along without him? Do the people tell the bureaucracy what kind of government they want, or do the bureaucrats tell the people to like what they give them? How much have the scholars told the American people about these things?

I am aware that any social problem is but a fragment of a much greater social problem and therefore that the most complete analysis of a social problem is still only a partial analysis of that problem. Bearing this in mind I suggest that an "adequate" analysis of the relation of executive and administrative power to democracy requires a thorough consideration of the following questions: (1) Do the people have a free choice in the selection and rejection of the chief executive, or do those who are in power determine the action of the people at the polls? (2) Can the chief executive, and does the chief executive, control the bureaucracy? (3) What agents other than the chief executive can the people count on to restrain those who have executive and administrative power? (4) How effective are means of popular control when brought to bear directly upon the bureaucracy?

1. *Popular selection and rejection of the chief executive.* Ever since the adoption of the present federal Constitution the president has been referred to as the representative of the whole nation. How much of the nation is he responsible to? The electoral vote system clinches the disfranchisement of the southern Negro by discouraging the development of a second party, limits the southern white man's participation in the selection of the president to the Democratic convention, and materially reduces the number who vote (white and black alike) in all parts of the nation. Can the American people afford to take a chance on such an electoral system if the war puts the strain on our democracy that some of us anticipate? Throughout our literature recurs the statement that the electoral vote system is undemocratic. But none of us has fully explored its relation to government by the people and explained its significance so clearly that the man in the street can judge for himself whether it is safeguard or menace.

The man in the street knows that the object of every political campaign is to sell him a bill of goods. Have we told him as much as we could about the tricks of the salesmen? For more than a century we have denounced the spoils system as a low-down vote-buying device. But, strange to say, since the enactment of the Civil Service Act nearly sixty years ago we have not made a systematic measurement of the influence of "politics" on turnover in federal employment, nor have we produced a truly significant analysis of how federal appointments and removals are manipulated for political advantage. Nor for that matter have we done a thorough job on the spoils system in any state. A Michigan commission of inquiry seems to have come closest to it (*Report of the* [Michigan] *Civil Service Study Commission*. Lansing, 1936).

Everything that government does for the people has an effect on votes at the next election. A program that satisfies the people is the strongest reason for continuing the administration in power. But how are the people to know whether a promising program is fairly and efficiently administered when the evidence is controlled by an administration that is determined to retain its hold on power? Some governmental programs settle down so closely about the citizen's own life and affairs that no kind or amount of publicity, propaganda, or government information can fool him as to what is going on. Is an intelligent public opinion on politics possible only in respect to this sort of program? Peter Odegard and others have told us a great deal about how the governed are maneuvered into expressing their approval of

a government of which they would have nothing if they knew more about it. But we shall have to know a great deal more about government information and bureaucratic activities than we know now before we can give the people the guidance they need for distinguishing between government honestly designed to meet their wishes and government designed for the benefit of a few but falsely decorated with appearances of concern for the many.

Crises call for vigorous government and vigorous government demands concentration of power. But concentration of power comes only by compromising with the checks of man on man which we have traditionally considered to be essential to democratic procedure. Can we reconcile these concentrations of power in the chief executive with our concern for popular control? The subject has been carefully examined in a most important study by Frederick M. Watkins, "The Problem of Constitutional Dictatorship," in *Public Policy*, 1940.[1]

There is more to say on the subject than Mr. Watkins was able to compass in his fifty-five page article and the subject cries out for more extended treatment. In the meantime what Mr. Watkins has to say should be passed on to the general public by publication in a style and medium attractive to many thousands of people instead of the few hundreds who will see it in its present form.

2. *Executive control of the administration.* For at least a quarter of a century American writers on public administration have been in near unanimous agreement that the chief executive can mold an administrative program to the pattern he likes if he is given appointive and removal power over the heads of departments (with not too wide a span of control), and supplied with a staff adequate to administer certain functional controls in accordance with his instructions. This theory produced the city manager form of municipal government, has controlled nearly all the important state administrative reorganizations since 1917, and was brought dramatically to the attention of the nation by the *Report of the President's Committee on Administrative Management* in 1937.

None of the literature dealing with state administrative organization has made more than a superficial inquiry into the validity of the assumptions and logic involved in this theory, and a few people, including Mr. Millspaugh, have confessed to less than complete conviction. I am less familiar with the literature of local government, but I believe that it too fails to reveal that fullness and sharpness in test and verification that a learned profession should give to any highly significant proposition which it consistently recommends to the public.

The President's Committee on Administrative Management assumed that the national administrative branch could be forced to respond to the president's wishes and outlined the structure and procedures which it thought would accomplish that result. Both the *Report* and the special studies which supported it explained the theory upon which the proposed reorganization was based; they did not in any sense inquire critically into its validity.

While most of our literature dealing with executive control of administrative activity proceeds from premises which ought to be most critically examined (so it seems to me), we have done some writing that takes very little for granted. The most carefully reasoned essay by any living writer on this subject, in my opinion, is by James Hart of the University of Virginia, "The President and Federal Administration," in *Essays on The Law and Practice of Governmental Administration.*[1]

Mr. Hart's essay is rather an argument than a neutral inquiry and certainly will not be accepted as conclusive by persons who hold to different faiths. The subject is worthy of a more extended inquiry and one less controlled by the predilections of the author. The acuteness of Mr. Hart's reasoning indicates that he could do the larger subject ample justice if he set his mind to it. He could hardly do the American people a greater service.

The immediacy of the need for such a study is witnessed by the present situation in Washington. Has the president any business to give attention to any but the broadest questions of public policy? If he is to become Chief of United Nations strategy, can he be permitted to give attention to (ought he even be told about)

[1] Edited by C. J. Friedrich and Edward S. Mason (Harvard University Press, 1940), pp. 324-79.

[1] Goodnow memorial volume edited by Charles G. Haines and Marshall E. Dimock (Johns Hopkins Press, 1935), pp. 47-93.

any question involving the control of a department unless that question is admittedly of the greatest importance to the success of the war?

But if the president is not to pay any attention to the management functions that our dominant theories of administrative organization suppose he will perform, by what devices is our multitude of bureaucracies to be held responsible for government that accords with the public will? Is not this a question with which the best minds in American political science should become concerned at once?

3. *Other devices for control.* If the president has not time to, or cannot, control the administration, then how is control to be effected? Will some moral force operating on men, selected by advanced techniques and invited to professionalism, cause them voluntarily to seek the effectuation of the public will? Can we revive the cabinet (or create a new one) and make it into an agency for coordination and control of the administration? Is it feasible to establish a vice president in charge of operations? Possibly the solution will be a central secretariat with full power to control administrative departments, but itself answerable to the president.

We have thought about these things and we have mentioned them in our writing. But we have done neither the fact-finding nor the completeness of analysis that is necessary to recommendation of a policy. Yet if the war and its aftermath produce the strains that the most sober minds anticipate, the persistence of a democratic system in America may depend on our solution of this problem.

Whether he be chief of administrative operations or not, the president will be crucial to our democracy. The importance of a richer literature on popular selection and rejection of presidents was discussed above. But what about effective limitation of the chief executive while he is in office? Can Congress hold him back if he goes all out for one sector of the public interest or starts talking the language of dictatorship? Already some students of government speak of parliamentary powers, as we have known them for a century or more, as being outmoded. Can we allow this trend to swell in importance except after the most searching analysis?

Despite tendencies to pass political power on up to Washington there is still enormous capacity for doing good or evil in our state governments. Administrative reorganizations of the past twenty-five years have greatly increased the authority of the chief executive of the state, yet in not one of the states (are those few which have the impeachment habit exceptions?) does the legislature afford effective control over him. There has been (and probably is now) virtual dictatorship in some city governments, county governments, and other areas of local government throughout the nation. Are these little dictatorships to be tolerated simply because no one of them is nation-wide? Or do the students of politics have an obligation to find out what has happened to democracy at these lower levels of government?

Certainly we have done a lot of writing about our local democracy. We have proposed electoral reforms, administrative reforms, and legislative reforms. But it seems to me that on the whole we have failed to instruct the people on the importance to government for the people of the independent, fearless, and informed representative assembly, whether in the community, the statehouse, or the national capitol. In his *The American Senate,* Lindsay Rogers put up a strong argument for a Congress with prestige and power sufficient to force an unwilling president to heed its warnings; every volume of Robert Luce bids for sympathy with and faith in the legislature; T. V. Smith preaches an eloquent sermon on the vital role of the politician-and-legislator in the operation of democracy; and Frederic Guild and others have been moved by concern for a surer democracy to devote full time to the strengthening of the legislature. The merits of the argument seem to me to be on their side but there is difference of opinion on the matter. Certainly there are teachers of political science who orally express doubt that there is any place in a "modern democracy" for legislative power sufficient to force the executive to account.

A nation which is devoting half its strength to the extermination of dictatorship should be able to find in its numbers some disciplined minds eager to search to the bottom the relation between the representative assembly and executive-administrative responsibility. If there is nothing more to do than restate John Stuart Mill, then let John Stuart Mill be restated. I think there is more to be done.

4. *The public and the bureaucracy.* It is possible that in "the administrative state," which some say is upon us, the American people will depend upon direct contacts with the bureaucracy to effect the public will in administration. There is increasing evidence that a high degree of accountability can be established in this way. There are at least four developments of recent years that point in this direction.

First are the polls and plebiscites which have become available to guide the administrator. Best known, of course, are the unofficial reporters of opinion and desire such as the American Institute of Public Opinion. Of equal if not more significance is the use of surveys and plebiscites so fully developed by the United States Department of Agriculture to determine public wishes or public reaction in respect to its various programs of public service.

Second to be mentioned is the system of committees developed by the Department of Agriculture for the discussion of rural problems and the better relation of public policy to rural public needs. Under control by one set of minds this committee system may virtually guarantee government of, by, and for the people; under a different control it may be a device for manufacturing consent and choking unpopular government down the throats of the people.

A third method of bringing the administrator and the governed into close contact with one another is that of giving interest groups representation in administrative offices. This may be accomplished in naming the members of a board having administrative powers; it is more likely to be accomplished by creating representative boards with advisory powers.

Fourth, the better integration of public wish with administrative action is being accomplished by devices which seek more diligently in hearings or by other inquiry methods to determine what the people want.

In respect to the first and second of these developments we have some literature which describes and some which seeks to justify what has been going on. These devices and procedures are new in America and there has not been time for a critical literature to develop. They have such portent for the future of democracy that the political scientists of the country dare not let them escape the most searching study.

The third and fourth of these devices or methods have been with us longer and have received more substantial treatment, though far less than their importance entitles them to. One or both has had mention in occasional law review articles; Congress paid serious attention to certain aspects of them in a few hearings (e.g., *Equal Labor Representation on Government Codes and Boards,* Hearings before House Committee on Labor, 74th Cong., 1st Sess., 1935); the Attorney General's Committee on Administrative Procedure greatly enlarged our knowledge of what has been going on (*Administrative Procedure in Government Agencies,* Sen. Doc. 8, 77th Cong., 1st Sess., 1941); and a few books have gone with some thoroughness into these matters. Chief of these, perhaps, is E. P. Herring's *Public Administration and the Public Interest.*

Collectively, however, these writings have neither touched upon all aspects of the subject nor probed into many of them very deeply. There has been need for further study along these lines, and Mr. Leiserson in the book cited at the head of this review adds to our understanding of matters on which we badly needed to be enlightened.

Mr. Leiserson limits his inquiry to relationships between interest groups (formal organizations and loosely connected alliances) and administrative action of a regulatory character. He points his treatment mainly to three kinds of situations where contact between group and administration is direct and readily observable: presentation by the group of its case or its interests before the administrative agency, representation of the group (by giving it membership) on boards having administrative power, and representation of the group (by membership) on boards having advisory power. Most but not all of his illustrations are drawn from federal rather than state or local government experience.

These limitations leave important relationships for others to explore, but they nonetheless give the author opportunity to examine highly important matters.

In discussing how the group gets its point of view and its wishes before the administrative agency in which it has no official membership, Mr. Leiserson organizes his material according to the classification of administrative powers developed by Professor Ernst Freund. I have long thought that this classification is too refined for

any great practical value, and it seems to me that Mr. Leiserson's experience in the use of it supports my point of view.

Be that as it may, the report of the Attorney General's Committee on Administrative Procedure, which appeared after Mr. Leiserson completed his writing (one of the individual monographs is cited), has carried the fact-finding much further than Mr. Leiserson did and greatly reduces the significance which this part of his book would otherwise have had.

Mr. Leiserson considers it bad practice to give administrative power (power to make decisions) to boards made up in whole or in part of persons designated as representatives of different interests. He is uncertain whether exception might not be made to this rule in case the board has a great deal of policy-making work to do, with few administrative details to attend to. But the general proposition is sound, he thinks, for several reasons: it is impossible to represent all the interests that are concerned and giving representation to only one or a few of them raises problems with others; the representative of an interest group must serve two masters, the interest group and the general public, and he is likely to fail to please either; and finally, difficulties are created for the interest group itself since it may be reluctant to oppose the body on which it is represented.

As for advisory committees or boards, Mr. Leiserson thinks that they perform a useful function, and he thinks that for many purposes the members may best be acknowledged as representatives of designated interests. His treatment is mainly descriptive of how such bodies have functioned in the past, and alternatives to his own conclusions are not disposed of in the text.

Mr. Leiserson did not write his book primarily to throw light on relations between administrative power and democratic government. Nevertheless the experience which he describes is immediately relevant to the establishment and maintenance of government by the people and for the people.

III.

Political science has not long been recognized as a distinct branch of study and the literature discussed here relates to only a small part of the subject matter which the political scientist must consider; in view of these facts, many political scientists will say, we have done pretty well. My answer is, even if we have done pretty well, we have not done nearly well enough. A national effort and national sacrifice that fall short of winning the war are an inadequate effort, and a scholarly effort that fails to tell the people and their leaders everything they need to know about how they can keep their democracy is an inadequate scholarly effort.

It will be said that good literature cannot be produced on short order, that we are shorthanded, that the war has thrown other duties upon us, that there are a dozen reasons why the country must wait for the literature which we wish we had been able to produce before now. I recognize and admit that there is force in these arguments. But the young men of the nation have been required to sacrifice their comfort, their ambitions, and eventually their lives; business undertakings and whole industries have been destroyed; men have broken production records only to be urged to do better yet. Are the college professors and students of public affairs exceptions to the rule that all sectors of the population must now do more than they have ever done before?

It seems to me that in respect to the matters I am writing about we have been caught naked in the breech. A sense of decency as well as a sense of obligation to the nation which supports us requires that we correct our shortcomings.

Scientists in Government

By Howland H. Sargeant, Office of the Alien Property Custodian

SCIENCE AND WORLD ORDER: a Report of the British Association for the Advancement of Science. British Association for the Advancement of Science, 1942. Pp. vi, 120. 5 shillings.

IN THE year 1831 Charles Darwin left England in H.M.S. "Beagle" for the famous expedition surveying the coasts of South America, Australia, and New Zealand. In that same year, the British Association for the Advancement of Science was founded. No professional rank or other technical qualification is required for membership in the Association. Like its counterpart in this country, the A.A.A.S., the British Association admits any member of the community interested in science. The cross-fertilization of the ideas of scientists and laymen has worked well over a period of years, resulting in the initiation of many new scientific movements and in a willingness to undertake radical experiments looking toward the advancement of science.

One important step of recent years was the creation by the Association of the Division for the Social and International Relations of Science in 1938. The division grew out of a recognition of the need for more objective study of the contacts of science with social conditions and of the social implications of science. The 1941 conference, reported in *Science and World Order*, was arranged by this division, was attended by distinguished men of science and other citizens of more than twenty nationalities, and is said by Sir Richard Gregory, president of the British Association, to be "the first occasion upon which representatives of science, administration and government met together to consider problems of the adjustment of progressive scientific knowledge to social action."

Symposia covering so wide a range will ordinarily include papers of widely differing merits. This volume is no exception. In many cases it has been possible to report only summaries of what a speaker said. There is the unevenness and diffusion of interests one would expect in an agenda "for the discussion of the place which Science should find in World order, its relations with the democratic State, its contributions to the relief of human needs and suffering, its potentialities in connection with the just distribution of world resources, and the influence which by its example it should bring to bear in directing the minds of men toward peaceful collaboration in the future for the common welfare."

The conference discusses the relationship of science to six major topics: government, human needs, world planning, technological advance, postwar relief, and the "world mind." Of greatest general interest are the sections on science and government, and science and the world mind. Professor A. V. Hill, the secretary of the Royal Society, handles existing use of science in government rudely. "The war had shown, what many suspected already, that for all its devotion and its high traditions, the Civil Service has largely failed; the same might well be said of Parliament. . . . Science will never be given full scope until a revolution has occurred in the methods and outlook of Government itself." Professor Hill makes the point that the primary difficulty in having science properly used, and not misused, in government is the bureaucratic method itself, with "its authority, its routine, its discouragement of initiative, its lack of freedom and criticism, its secrecy." Where this is true, it is indeed the antithesis of the environment in which good scientific work is usually done.

Hill's paper brings out one great failing almost universal in the use of science in government: the practice of regarding scientists as superior technicians paid to dish up the magic which the administrators and policy makers in their superior wisdom may order. As remedies for some of these abuses, Hill recommends that every department of government should have available independent scientific advice, and that a reserve of scientists be established by a system similar to that by which reserves of officers and other ranks are prepared for emergency duty in the fighting services. A period of service in government laboratories would be valued by many of the ablest scientific workers, who would return to other jobs, with occasional refresher periods later.

Also worth reading is J. D. Bernal's examination of the function of the scientist in government policy and administration. Bernal, author of *The Social Function of Science,* finds that the role of the scientist purely as an adviser in administration is being replaced by two new functions, deciding the direction in which policy shall go and carrying out the policy itself. Without being entirely certain of the exact steps required, Bernal is sure that we must make the integration of operational research and development complete, that somehow the executive and the scientist have to be combined in one person or in a closely acting group. "The experience of war shows clearly what before had only been tentatively guessed at, that in the modern world only organized activity counts and that no activity can be organized effectively unless it is done scientifically." Bernal does not feel that it will be sufficient merely to bring the scientist into closer touch with the direction and execution of policy. There must be *control.* He advocates a permanent technically qualified body to examine the results of all measures in government administration during past years, to see whether the measures taken have been successful and whether they produced effects not thought of when they were enacted. In rapid current surveys of a given problem, in discovery and determination of its limits, in greater and more effective collaboration between research departments, in union of development and research, and in the proper blend of science in execution and control, Bernal sees the backbone of a scientific administration—not one that is merely tinseled with the addition of a few scientists as advisers.

The papers of the entire meeting contribute a number of concrete suggestions for the better use of science in government. Common ground, however, is virtually unanimous insistence on the first and last points of the "Declaration of Scientific Principles" adopted by this meeting as a Charter of Science: "Liberty to learn, opportunity to teach and power to understand are necessary for the extension of knowledge; . . . the pursuit of scientific inquiry demands complete intellectual freedom and unrestricted international exchange of knowledge." Among the more ambitious proposals is one for an International Academy after the war as a "centrally co-ordinated institution of sciences, arts and practical international cooperation" in the world state which such distinguished scientists as Harlow Shapley see as inevitable in a planet now too small for cultural or economic isolation.

Lord Samuel proposes appointment of science attachés to our principal embassies. J. D. Bernal proposes an International Resources Office, taking under its purview "the whole of the production flow sheet of modern organized communities, from the mine or field to the ultimate consumer." The IRO would keep a complete and detailed current analysis of the basic supplies on which all productive industry could rely; it would review the techniques of all industrial and agricultural processes and foster industrial research to bring the productivity of all industry up to that of the most efficient establishments; and it would also exercise a general supervision over selection, education, and training of industrial personnel. Bernal tells us that most of the work proposed for the IRO is already being carried out by a great variety of bodies, mostly local and national, and that the IRO would coordinate their work and supplement it where necessary.

Discussions of science in government, however, or in world planning, no matter how concrete the proposals, turn back ultimately to the topic which is stressed in this series of papers by speaker after speaker and which is dealt with ably by J. G. Crowther, Bernal, Dr. Frank B. Jewett, and others, especially in those deliberations devoted to an appraisal of "Science and the World Mind," with Mr. H. G. Wells presiding. The chairman set the tone with his introduction: "My primary idea was that there is no orderly world mind at present, but only a world dementia, and that it is the business of scientific men to pull together this confusion and prepare a working conception of organized will and knowledge upon which mankind can go." A profitable start can be made by reading Mr. Crowther on "The Education of the Public." He says nothing startlingly new, but he makes his points with a vigor that commands attention. His theme is the acceptance of the principle that men who rule a technological civilization need have no knowledge of science, and that a man ignorant of science can yet be accepted as educated. "What is so sickening," cries Mr. Crowther, "is that some, at any rate, of the possibilities of modern science have been

understood better by uneducated political criminals than by the men of good will who have been intellectually castrated by an education centuries out of date."

A graph of the Nobel awards in science adds weight to his punch. It shows how greatly the German total exceeds that of any other nation—and that the rate of awards to German scientists was not slowed down either by the war of 1914 or by Hitler's accession to power. The French curve reveals a remarkable turning point in 1914, suggesting that French science was smashed by the war and never effectively recovered. This belief finds support in Dr. Labarthe's description of the cleavage in France between the activities of the research workers in the faculty laboratories and the engineers controlling manufacture and industrial research. The result: loss of vitality, lack of laboratories, failure of scientific training.

Since the last war British science has leaped ahead, and American science shows a sharp upward trend in recent years, to judge by the Nobel awards. In Crowther's opinion, these curves "help to explain the tremendous scientific and technical strength of Germany, the collapse of France, and our own power of recuperation, which has surprised the world. . . . In Germany science was never a popular interest. It was consciously fostered by the governing classes as an instrument of national aggrandisement." Crowther calls popular knowledge of science "a condition of the survival of civilization" in this modern world.

Perhaps this is the real significance of the whole report. From the introduction to the ending, speakers hammer home the inadequacy of our preparation of any place for the scientist in government. Lord Samuel remarks on the slow development of the scientific spirit in Great Britain and attributes its lag in government to the system of education, concentrated on classics and literature, given to ministers, members of Parliament, and civil servants. Only Lord Salisbury, Balfour, and Ramsay MacDonald are conceded to have been at all "science-minded" prime ministers. Professor Lauwerys demands a curriculum planned around natural science and the social studies. Julian Huxley says it more pretentiously in styling it a relativist system, "related to the social needs of the particular society at the particular time, but given a universal basis by being further related to the common but evolving ideas and standards derived from a scientific humanism."

These criticisms of the role of the scientist in modern life are by no means confined to conferences such as the London meeting. Scientists today are thinking in terms of human problems as they have never thought before. In the United States, the National Science Fund of the National Academy of Sciences has among its duties, as a result of its position as a national clearinghouse for advice on how to give wisely and effectively in support of science, the task of determining those long-range scientific projects which deserve the support of the nation. It recently sent a questionnaire to more than one hundred of the leading scientists of the United States, listing eleven possible fields of study and asking the scientists to indicate those they regarded as the most important for the future. Preliminary analysis shows that the emphasis was on human problems throughout, despite the fact that replies were from both physical and biological scientists. Their considered answers gave an approximately equal representation to each major scientific field. These scientists of the highest standing showed that they themselves were more deeply concerned about the human and social problems of the day than about the extension of man's control over the forces of nature. The studies dealing with man himself are their greatest concern, whether they are physicists, engineers, astronomers, biologists, or psychologists. One of the primary reasons for this pronounced emphasis was succinctly expressed by a noted geneticist who wrote: "Democracy is imperiled by citizens whose thinking does not stem from realities. The major problem is to get science to the citizen."

This is what Bernal means when he proclaims that the modern state cannot hope to make use of science unless it has a scientifically educated people. If we can learn from the wisdom of those who have thought most deeply about the interrelations of science and society, we must believe that as the scientist comes more and more to interest himself in all human problems, the citizen too must learn a wider and deeper application of science. It seems unusually significant that the message sent to this meeting in Great Britain by Dr. Frank B. Jewett, who holds the highest honor American

science can bestow—the presidency of the National Academy of Sciences—should stress his belief that "mankind in the aggregate is ruled by laws or principles of behaviour as immutable as those which guide the performance of the molecules of air he breathes." Although the laws of social behavior have proved more difficult to discern than those of the material world, Dr. Jewett tells us that he believes the time will come when the world will rear its social Newtons and its political Faradays and Maxwells, enunciating the laws of social and political behavior as clearly as these scientists have drawn the picture of the behavior of planets in their courses or of electrical phenomena.

It is fashionable just now to look with favor upon many of the programs of Russian society. Perhaps it is more than just fashion, however, which turns many of our most interested participants in discussions of science and society to an examination of Soviet education, where science forms the core of most instruction, especially that given to the men and women whose functions correspond most closely to those of our civil servants. We find Mr. Hugh Vowled telling us that in the U.S.S.R. "electrification is planned scientifically and comprehensively on a scale far surpassing anything attempted elsewhere." Mr. D. P. Riley urges that modern scientists of the English-speaking world be trained to read Russian as they now are taught German. Bernal demands a drastic revision of the patent law for the forwarding of his International Resources Office. In these days of hot debate centered about patents, we might well remember that our patent system follows the ideas recommended by Thomas Jefferson, while Alexander Hamilton's proposal that the reward of the inventor should be in the form of a subsidy or premium from the government itself is followed today only in the U.S.S.R.

It is clear that we have not yet succeeded in laying the basis for the successful participation of the scientist in government, no matter how skillfully we turn our phrases, or proclaim that the emergency of war has made us fully aware of the value of science, or contend that mechanical changes, the creation of new bureaus, will do the trick. It will take more than such superficial changes. It will take a fuller understanding of science, its methods, and its values, by an enlightened citizenry before the millennium will come.

We live in an age when science has penetrated into our art, our poetry, our architecture, our literature, our philosophy, as well as into our kitchens and bathrooms, automobiles, weapons of warfare, and other material goods and gadgets.

Our astrophysicists and mathematicians compress the coordinates of space and time; this is the compression reflected in the cubism of modern art, well illustrated by Picasso's paintings of faces which are both profiles and full-face views at the same time. This compression appears in dilute form before the subway rider in present-day advertisements. Our poets, Auden and Empson and Ransom and Spender and Huxley and Cecil Day Lewis, revel in images from science. There is the scientific humor of the "Fifth Philosopher's Song" of Aldous Huxley—

> A million million spermatozoa,
> All of them alive:
> Out of their cataclysm but one poor Noah
> Dare hope to survive.

There is the scientific research Auden describes in "Spain" as the main intellectual activity of a better postwar world, and the indigestible science of Empson in—

> Courage. Weren't strips of heart culture seen
> Of late mating two periodicities?

Our architects show the influence of a new scientific mentality in their imaginative use of new materials to develop functional design. Our environment at every hand reflects the impress of science. Our thought itself is profoundly influenced by the concepts of science—and of pseudo science.

An unpublished survey made not long ago of the interpretation of science to the public showed that there is tremendous interest in science: 12½ per cent of the editorial and 20 per cent of the advertising content of seventeen magazines of more than 1,500,000 circulation dealt with science; one-fifth to one-fourth of the motion pictures shown in this country contain some science, right or wrong—although it was taken humorously or mishandled about as often as excellent jobs were done; one out of every twenty columns in the reading matter space of our newspapers deals directly or indirectly with science, and probably about a fifth of this (roughly 1 per cent of total space) is occupied by news stories that are primarily science.

Yet we have a long way to go before we can popularize science in the best sense so that we shall have that understanding which is basic to the closer relations of the scientist to society, to government, to the world order, and to the world mind. We must first have an education, whether for the young or the adult, which makes science popularization possible, which supplies a simple and well-understood matrix into which the applications of science may be fitted. Then we shall have less need for the writer of science for popular consumption to teach his history as he goes along. There will be more opportunity to interpret the social significance and long-term effects of scientific development, both as they affect the individual and as they affect society.

When a majority of people understand better the role of science in this modern world, we shall have less need of such symposia as the one under review and more support for Sir William Bragg's words, which might well be taken as the valedictory of this conference: "We do not claim that scientists shall be entrusted with authority because they are scientists; we do claim that authority shall be exercised in the light of a knowledge which grows continuously, and with continual effect, on politics, on industry and on thought itself."

Adjudication by Federal Agencies

By Frederick F. Blachly, Brookings Institution

THE JUDICIAL FUNCTION IN FEDERAL ADMINISTRATIVE AGENCIES, by JOSEPH P. CHAMBERLAIN, NOEL T. DOWLING, and PAUL R. HAYES. The Commonwealth Fund, 1942. Pp. xii, 258. $3.00.

THE problem of dealing with the judicial function of federal administrative agencies is one of great difficulty. This is due to many factors. Several score of agencies exercise this function in one way or another. There is no hard and fixed line to be drawn between the judicial function and other functions. No two persons would probably agree upon all activities that should be so classified, although many agree upon the principal ones. The judicial function is exercised under a wide variety of circumstances, and the statutory law governing these different circumstances, which extends over the rather long period during which the regulatory function has been developing, is far from uniform. Court decisions as to the relationship of the authorities exercising the judicial function to the legislature and to the courts have been undergoing a gradual transformation. The legal effects of different types of action are quite different due to political, economic, and legal philosophy, as well as to express and judicially developed constitutional and legal doctrines.

Congress has laid down by statute several different forms of action that should be taken under some three thousand specific authorizations to act, such as the rule and regulation, the decision, the order, the award. Even within these various forms, actions taken have quite different legal significance, due not only to express statutory provisions but also to constitutional and statutory limitations and political philosophy. Thus, although rules and regulations are legislative in nature, the making of a few specific types is subjected by statute to judicial procedure and to judicial control. Orders are of several varieties, each of which has its own judicial significance. The making of procedural and valuation orders, for instance, is not subject to the same "due process of law procedures" required for making many other orders, nor are the former orders controllable by the courts. Reparation orders, as a rule, cannot be made final because of constitutional limitations. Cease and desist orders are not of the same juridical color as are wage or rate orders.

Congress has established no uniform rules of procedure governing types of administrative action, even in respect to the same subject matter. Nor have administrative authorities agreed on what procedure should be used. Even within the same authority, such as the Department of Agriculture, there may be several slightly varying statements, for example, of the disciplinary procedures used under different acts. Almost every authority has its own rules of

procedure and these may vary greatly. Congress has established a wide variety of methods of control over economic life by means of a variety of methods with profoundly diverse effects upon judicial function as well as upon all other functions of administrative agencies. Control through the granting, renewal, suspension, and revocation of licenses is quite a different thing from control over rates or wages and hours of work. Control over the field of banking is a far different control in its juridical aspects from that exercised over railways or motor carriers, not because of any inherent difference in the way it affects the individual but because of certain judicial relationships and practical effects. What banker or borrower from a bank, for instance, would wish a public due process of law hearing as to whether a note held by the bank was adequately secured?

Congress has established many kinds of sanctions as a means of securing obedience to its laws or to the actions of administrative authorities taken under them, such as suspension or revocation of a license, seizure and forfeiture of property, withdrawal of the privilege of using the mails, removal from office, requiring reparations to be paid, awards of damages, civil and criminal fines, and imprisonment. All these must be considered from the viewpoint of the constitutional law involved, the authorities which are capable of applying such sanctions, the methods by which they are applied, and the control which is applicable over such actions.

Congress has established a wide variety of methods by which administrative authorities can enforce actions taken by them, such as an order of enforcement made by the authority taking the initial action, by other administrative authorities, by various tribunals such as the Customs Court, and by the regular courts. The enforcement may take place as the result of a decision upholding the action of the authority or, as is often the case, as the result of an injunction suit to annul, suspend, or set aside the action of the administrative authority. Congress has also created many different controls over the judicial actions of administrative authorities, such as control by various administrative tribunals, by one-judge district courts, by three-judge district courts, by the circuit courts of appeals, and by the procedures of an appeal, or certified question, or certiorari to the Supreme Court.

It is against this background of complicated factors that any book on the judicial functions of federal administrative agencies should be judged. The book under consideration is divided into five chapters: Methods, Policy, Sanctions, The Courts, and Conclusions. The chapter on methods is largely concerned with procedure; the chapter on policy is concerned with the expression of policy as found in decisions and rules and regulations, and control over policy by the courts, the president, and public opinion. Chapter three deals with sanctions, those that are not a part of the judicial function as well as what the authors call administrative judicial sanctions. Chapter four on the courts deals with methods of access to the courts and the constitutional background for statutory development. The final chapter is given over to conclusions.

In defining the judicial function the authors say:

> The judicial function includes the manner in which the agencies deal judicially with the rights and duties of private persons and the position of their decisions when contested in the courts. It includes proceedings brought by the government against private persons, the settlement of differences between private persons, and matters in which both government and private persons are concerned as parties but in which the government does not bring the action. A study of the judicial function, however, must go further to include the commencement of the proceeding and the settlement of cases by informal methods before the use of the judicial process, and must continue through action in the courts. It is necessary to an understanding of the agencies and their operation to study the methods by which they enforce their policies and orders, without reference to the courts and even without formal proceedings in the agencies themselves. It is in this way that the greater part of the enormous volume of business pressing for settlement is disposed of, with the result that only a small part ever reaches the courts or even the stage of formal proceedings within the agency.

The book "is based principally on procedures and practices of the Federal Communications Commission, Federal Trade Commission, Interstate Commerce Commission, National Labor Relations Board, Securities and Exchange Commission, Department of Agriculture in the administration of the Packers and Stockyards Act and Perishable Agricultural Commodities Act, Post Office Department in the administration of fraud orders, Food and Drug Administration, General Land Office, Immigration and Naturalization Service, and on the administration of the Longshoremen's and

Harbor Workers' Compensation Act." A great many agencies which exercise the judicial function are almost entirely omitted, such as the Board of Governors of the Federal Reserve System, the Federal Alcohol Administration, the Bureau of Marine Inspection and Navigation, the Wage and Hour Division in the Department of Labor, the Veterans Administration, the General Accounting Office, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Commodity Exchange Administration, the Foreign-Trade Zones Board, the Social Security Board, the Civil Aeronautics Authority, the Federal Power Commission, the Railroad Retirement Board, the United States Maritime Commission, and the United States Tariff Commission in respect to unfair trade practices in the import trade.

The book does not attempt, as does Dr. Cushman's study, *The Independent Regulatory Commissions*, to give a historical picture of any of the authorities whose judicial functions are considered. Nor does it describe the agencies and their functioning, as do the admirable monographs of the Attorney General's Committee on Administrative Procedure. There is no consideration of the circumstances, economic and otherwise, under which these agencies exercise the judicial function; hence much of the discussion must consist of generalizations or at most of illustrations. No mention is made of political, economic, and legal philosophy or theory underlying procedures, sanctions, and court action in respect to administrative adjudication. One gets no intimation that several forms of action are used in the judicial process of federal administrative authorities. The failure to recognize this fact is largely due to failure to examine the judicial action of the numerous authorities omitted, many of which proceed by the decision and award, rather than by the order. Nor does one find in the chapter on procedure any inkling of the fact that there is a rather wide variety of procedures even in respect to the order, which are made necessary or desirable because of the nature of the subject matter involved. The Department of Agriculture, for instance, has at least five different varieties of procedure, namely: rate making; disciplinary (which includes procedure for cease and desist orders, the withholding of certain types of licenses, or their suspension or revocation); rule making, where the statute provides that rules must be made by a quasi-judicial process; reparations; and rules applicable to "6a" proceedings.

In short, many of the weaknesses of the book are attributable to the attempt to work under the given definition of the judicial function, the fact that only a few of the many agencies exercising the judicial function are carefully examined, and the fact that there is only slight treatment of the circumstances under which the judicial function is exercised or of the theory lying back of its exercise.

The definition of the judicial function here given opens up a much wider sphere of action than is commonly associated with "judicial," for it includes policing and investigating by administrative authorities and other acts which are administrative in nature rather than judicial. The methods by which such agencies "enforce their policies and orders, without reference to the courts and even without formal proceedings in the agencies themselves" are no part of the judicial function.

Several unfortunate results follow from basing the book upon such a small number of agencies. In the first place, this limitation leads to a far too uniform and simple picture of the administrative judicial process, for it is largely in connection with the agencies that are left out that the greatest variations occur in respect to forms of action, procedures, enforcement methods, sanctions, and controls.

Failure to treat the complex economic circumstances that lead to administrative action, and the objects to be attained by such action, causes the discussion in many instances to take place *in vacuo* and results in unjustifiable generalizations. The lack of any discussion of the economic, political, and legal theory lying back of administrative judicial action results in giving no understanding why actions having the same economic effect are treated by Congress in the basic legislation in such a variety of ways. So much for the general criticisms. Those involving greater detail will be discussed chapter by chapter.

Chapter one on methods suffers particularly from all of the above factors. It discusses—as judicial—informal administrative settlement, which cannot be considered as a part of the judicial function. The treatment of "general requirements" of formal procedure is far too simple an analysis. "Complaint," "interven-

tion," "evidence," and "findings of fact," are only a few of the steps that are involved in administrative judicial procedure. To name only a few of the common subjects of procedure which are omitted from the present book we note such headings as stipulations and consent order, answers, prehearing conferences, oral hearings, appearances, order of proceeding, motions, objections, subpoenas, depositions, official notice, the examiner's powers, the examiner's report, and shortened procedure. While a portion of this material is found in a discussion of the trial examiner, it is far from adequate, for there is little comment and evaluation of the many different concrete factors in procedure, such as: the power of the trial examiner over motions; who should have power to issue subpoenas; whether or not the trial examiner should prepare an intermediate report; whether or not he should prepare a tentative order and what validity should be given to it; whether or not parties should generally be permitted to file exceptions as well as tentative findings of fact and conclusions of law.

The chapter on policy suffers from the inadequate analysis of the judicial function, the treatment covering only the questions of what form of action may be taken, what procedures are used, what methods are applicable to enforce the decisions of administrative judicial authorities, and what types of control over them exist. Questions of policy are largely confined to the legislative actions of administrative authorities as expressed by the rule and regulation and requirement. While the order or decision, like judicial decisions, may develop policy, it is generally only an incidental means, and many orders and decisions in which no public rights are involved have little or no bearing upon policy. It is largely in respect to the cease and desist order that policy is developed. As a result much of the discussion in the chapter as to expression of policy would seem to be rather irrelevant.

While there may be considerable control by Congress, the president, and public opinion over the administrative authorities which exercise the judicial function, it is a general control and very seldom attached to their concrete judicial decision. From the viewpoint of their judicial function, therefore, much that is said about control is irrelevant.

It is unfortunate that the authors do not discuss the forms of administrative action. In order to understand the federal administrative judicial process, it is necessary to have a knowledge of the use and nature of the rule and regulation which at times is subjected to action and control judicial in nature, of the order (which is the principal form of administrative judicial action), of the award, and other forms of action.

One of the least satisfactory chapters of the book is that devoted to sanctions, due principally to the definition of the term which the authors state "is sometimes used to include all methods of shaping unofficial conduct in order to effectuate official policy." They quote with approval the statement by Dean Landis that: "These implements or remedies to effectuate policies can appropriately be called sanctions. . . . Sanctions, or the methods that exist for the realization of policies, may be thought of as constituting the armory of government." As a result of this definition, the authors classify as sanctions a great many actions which are only the psychological reactions of individuals to sanctions or are only methods by which the sanction is applied. The threat of prosecution, the fear of publicity, the fear of investigation are not sanctions. The real sanction is neither the fear of prosecution, nor the prosecution itself, but rather the punishment provided by the legislature for illegal action. Fear may act as a deterrent but it is not a sanction. The fear that "the goblins may get you if you don't watch out" is not a legal sanction. Nor is the fear of investigation or even the investigation itself the sanction. The real sanction is the punishment to be inflicted in case the investigation reveals wrongful action. Investigation and inspection are not sanctions but only methods to determine whether there are violations of law. Furthermore, a compromise can in no way be considered as a sanction. A compromise results from a meeting of minds, a sanction is imposed by one side. Nor can decisions or other actions taken in order to put sanctions into effect be considered as sanctions.

The definition of sanction adopted by the authors and applied to numerous situations throws the whole field of psychological reactions, administrative and legal methods and practices into the field of sanctions. The sanction in reality is the award or penalty established by legislative act and not the psycholog-

ical reaction that the individual may have in respect to punishment or fear of punishment, or the methods by which the punishment is brought about. One cannot then talk of administrative judicial sanctions, for the sanction is created by the legislature. One can only speak of the administrative judicial method of determining whether there has been violation, and of applying the sanctions. Incidentally, on page 93 the authors list imprisonment as an administratively imposed individual sanction, yet on page 96 they say rightly that "the power to imprison . . . is not exercised by any federal administrative agency. . . ."

The discussion of the enforcement of judicial actions of administrative authorities is both sketchy and confused. The subject is treated under the general heading of "Methods of Access to the Courts" in the section entitled "On Application by the Administrative Agency or Benefited Party." The authors list different situations under which such applications may be made: "to enforce a subpoena," "to enforce a final order," "to enforce a 'private right' award," and "on prosecution for a criminal offense." The subject "to enforce a subpoena" is treated in a cursory way in one paragraph. Under the heading "to enforce a final order," the authors state that: "Occasionally the statutes provide that the agency may apply to the courts for aid in enforcing obedience to its order." The word "occasionally" gives an entirely erroneous impression, for as a matter of fact practically all modern statutes provide for the enforcement by application to courts of all orders other than those which are self-enforcing or are enforced by other administrative action as, for instance, the refusal of the mail to a person who has violated an order, or the application by the Postmaster General of the rates for air mail set by the Federal Communications Commission.[1] Nor do the authors discuss the some half dozen types of judicial enforcement.

The subject of control over administrative judicial action is likewise treated in the chapter on the courts. This discussion, though extremely brief, gives a fairly adequate picture of the situation. This same chapter, under the heading, "Constitutional Background for Statutory Development," deals largely with what the courts have said regarding procedure, the relationship of the courts to the administrative authorities as to questions of fact and law, and the finality of administrative decisions. It is the opinion of the writer that this subject should have been placed in a separate chapter and been much more fully treated.

The last chapter of the book is given over to conclusions. Here are discussed the problem of separation of the policy and administrative functions of administrative authorities from the judicial, the problem of judicial review over administrative action, whether administrative agencies should exercise the judicial power, and of the merger of powers.

Despite its many shortcomings, the book has its virtues. It is readable, concise, and contains many interesting illustrations of the points presented. The book in general is sound in its recommendations, which are nowhere gathered together but are scattered throughout the different chapters in the form of "shoulds." The book has a rather large bibliography (which, however, fails to mention several important books and articles), also a table of cases and an index which is of value.

By and large, however, the book is disappointing. One had a right to expect a much more thoroughgoing and systematic study from three law professors operating under the Legal Research Committee of the Commonwealth Fund.

[1] See Exhibit 2, "Present Methods of Enforcement of Administrative Decisions and Orders Enforceable under S. 3676, 75th Congress, 3d Session," in *United States Court of Appeals for Administration*, Hearings before a Subcommittee of the Committee on the Judiciary, United States Senate (1938); F. F. Blachly and M. E. Oatman, "Federal Statutory Administrative Orders," 25 *Iowa Law Review* 582, 596 ff. (1940).

The Benjamin Report

By Spencer D. Parratt, Syracuse University

ADMINISTRATIVE ADJUDICATION IN THE STATE OF NEW YORK: Report to Honorable Herbert H. Lehman, Governor of the State of New York, by ROBERT M. BENJAMIN, 1942. Pp. ii, 369.

COMMISSIONER Robert M. Benjamin and his staff made the report on administrative adjudication in New York under circumstances similar to those responsible for the report of the Attorney General's Committee on Administrative Procedure in the federal government. Pressures seeking the curtailment of recently expanded administrative authority, or at least prevention of further administrative expansion, resulted in parallel but somewhat different developments. The increase of organized criticism caused the struggle in Washington relative to the Walter-Logan bill and formed the framework in which the Attorney General's Committee worked. In New York State an amendment was submitted to the voters in 1938 which by constitutional prescription would create judicial review of the facts as well as of the law of virtually all decisions of administrative officers and agencies. It was defeated. Governor Lehman actively opposed the proposed extension of judicial review and his opposition played no small part in its defeat.

In January 1939, in his annual message to the legislature, Governor Lehman stated that he had opposed the proposed amendment "because it was formulated without a thorough examination of the methods of operation of the different administrative agencies." Further he argued that it seemed "unwise to freeze into the Constitution a rigid procedure which would handicap and, in part, destroy the beneficial effects of the welfare and labor reforms which we fought so hard to initiate." Following up his criticism of the defeated amendment, he acted under the executive law (section 8) to appoint a commissioner to study the entire problem and to report back to the Governor, "so that his report and my recommendations can then be made available to the Legislature." Mr. Benjamin, a public-spirited and able New York City lawyer having no personal interest in the enforcement processes of the state, assembled a staff of like-minded lawyers and made his report to the Governor for consideration by the 1942 session of the legislature. The delay involved in making the report is explainable largely in terms of the method of the study which resulted in more time being required than was originally expected.

The Report, Form and Scope

COMMISSIONER BENJAMIN was authorized and empowered to study those qualitative aspects of administration denoted by the word "quasi-judicial." In describing his construction of scope he wrote:

> The word "quasi-judicial" has no single accepted meaning, and decision as to what procedures to include within the scope of the study has therefore been a matter of judgment rather than of theoretical definition. A definition that would include every determination of fact or application of law to a particular problem would be too broad, since it would include some activities that are purely administrative, such as matters of internal management. A definition, on the other hand, limited to matters in which some member of the public is affected would be too narrow, since it would exclude, for example, procedures relating to the discharge of civil service employees. . . . I have not adopted the definition of "quasi-judicial" that appears in court decisions determining whether a particular administrative procedure is reviewable by judicial proceedings in the nature of certiorari or in the nature of mandamus. I have, therefore, decided on an empirical basis what elements of particular administrative procedures should be the subject of my critical study and recommendations.

The empirical basis adopted by Commissioner Benjamin resulted in three main units in his report: quasi-judicial procedure, some aspects of quasi-legislative procedure, and judicial review of administrative determinations. The report presents a generalized description of the nature of each of these procedural sequences, with attention to the great variety of detail and differences among the administrative agencies treated. Recommendations are made in the course of the presentation and proposed changes are, as a result, specifically related to particular agencies, although fitted into a general description of the administrative process as a whole. The only discussion of general considerations that affect the solution of procedural problems appears in the form of

fourteen criteria governing perspective and criticism. These are followed by illustrative materials designed to indicate the impossibility of generic classification for purposes of criticism or recommendations. The example emphasized relates to the use of license revocations, and the argument is forceably presented with a wealth of examples compacted into a few paragraphs.

To attempt summarization of the criteria utilized by Commissioner Benjamin is hazardous. He asserts "general principles, valuable as they are, are valuable primarily as critical criteria. They do not solve the essential problems of method, of adapting the administrative and judicial machinery to the accomplishment of the desired ends." Change should be undertaken slowly and not too much at once. Hence no attempt to lay out a blueprint of perfection is undertaken. Sudden breaks with administrative experience are undesirable and adaptation of existing procedures rather than substitution of new procedures is advised. Emphasis should be upon voluntary administrative improvements, and legislation should be used exceptionally as a method imposing change. An eagerness on the part of administrators to adjust procedures when sympathetically informed of possible improvements is noted. Consideration of expense is fundamental and proposed or suggested improvements must be evaluated in terms of cost, "a question to which there can be no definitive answer." Added activities, at least, even though involving improvements should not be imposed except when considerations of increased funds and personnel are faced coordinately.

Several of the criteria center around the advisability of giving a high consideration to fairness in the administrative processes. "Not only the attitude and conduct of the administrator but the form of the procedures themselves should be directed to making the person dealt with feel that he has been fairly dealt with." It is desirable to emphasize the persuasive and educational aspects of procedure. Fairness, however, is not to be considered a "mere conformity with the due process clause of the Constitution. Many forms of procedure are consistent with due process, and the most satisfactory may call for much more than due process alone would require." While judicial procedure suggests forms and democratic safeguards, and standards of fair play can be found under the protection of the courts, these are of suggestive value to administration and not to be approached with a purpose of mere conformity. The purpose and type of interest involved must be taken into account in reaching solutions in particular administrative situations. As a result the quality of personnel engaged in administration is of first importance, but quality here includes awareness of difficulties and a temperament able to attack procedural problems successfully.

The final criterion has to do with the relative importance of judicial review as an element in the administrative adjudicatory processes. "Important as those questions are, they are, for a variety of reasons, in my view less important than the questions of administrative procedure." After noting the relative infrequency of judicial review of administrative procedures, and asserting that increase in number of reviews would not shift the emphasis away from the first importance of the administrative processes themselves, Mr. Benjamin makes a statement that well keys his values on this subject.

> In no case is judicial review a wholly satisfactory remedy for defects in administrative procedure that it may be called on to cure; if a person has been unfairly or improperly dealt with, the damage is not completely repaired by correcting the result. That this is so is confirmed by what I have observed in proceedings where there is now the equivalent of the broadest judicial review on the facts,—where the agency can do nothing, after an informal hearing, but take the party to court in a criminal or civil proceeding, in which the facts may be fully tried. I have found no less interest in the fair conduct of administrative hearings in such cases than I have found in cases where the scope of judicial review is more limited. In expressing these views as to the comparative importance of the administrative problems, I have not lost sight of the argument that the prospect of judicial review may have a cautionary and beneficial effect both on administrative procedure and on administrative determinations in particular cases. There is force in this argument; there is force also in an argument looking the other way, that a sense of responsibility is likely to grow where responsibility is imposed, and that supervision, if carried too far, will tend to undermine it.

Methodology

MR. BENJAMIN and his counsel, Francis H. Horan, supervised and correlated the staff activities as well as participating actively in all phases of the study. One staff member was given the particular assignment of studying the questions of law relating to the scope and procedure of judicial review and the constitutional and legal requirements governing administrative

procedure. Among the remaining eight "associate counsel" were allocated the various departments, boards, and commissions comprising the state administrative system. Included in the data examined were the usual written materials consisting of official reports and publications. Special attention was devoted to interviews and conferences with discretion-exercising officials. A carefully planned program of direct observation was undertaken, involving considerable travel throughout the state. Many hundreds of hearings were attended. Three series of public hearings, one each in Albany, Buffalo, and New York City, were conducted. Representatives of labor organizations, business groups, and bar associations were heard as well as interested individuals. Solicitation of views was undertaken through the press and the active cooperative participation of significant organized groups in the state was obtained. The interested professors of the various universities in the state were conferred with in several instances. Significantly, conferences and consultations were carried out throughout the various stages of the study.

Probably the technique devised as the unifying and coordinating approach to the study deserves separate comment. A check list describing elements or points for observation in the phases of administrative processes under observation was undertaken in the initial phases of the study. As the various staff members used it for a guide to facilitate uniformity in scope and observation, new points and questions were discovered. The use of the check list formed a basis for critical staff discussion and resulted in constant expansion and reexamination of items as the study progressed. It is to be hoped that Mr. Benjamin will see fit to make available the completed check list as part of the body of separate memoranda not yet published. A description of the evolution of this body of materials with critical commentary on use and limitations would provide a device, possibly as significant as the report itself, to facilitate the systematization of administrative processes by future researchers.

A Division of Administrative Procedure

THE Attorney General's Committee decided that some coordinating agency in the federal administrative system, looking forward to the attainment of greater uniformity in many subordinate particulars (final report, p. 123), was needed. Although Commissioner Benjamin was not impressed with the need for emphasis upon greater uniformity in administrative adjudicatory processes, he recommended a somewhat parallel agency. However, clear-cut comparison of the proposed ways of meeting expanded rule-making and enforcement processes is difficult, not only because of difference in emphasis as to the desirability of uniformity but also because the Attorney General's Committee recommended a well-developed central control system over agencies determining rights, duties, immunities, or privileges of private persons. Relatively less attention was given to the rule-making than the adjudicatory processes, for which an elaborate system of hearings was proposed with hearing officers partially under the control of the central agency.

Commissioner Benjamin considers that a technical and advisory function is sufficient in his Division of Administrative Procedure. Its jurisdiction is extended with uniformity over both rule-making and enforcement processes, except for the extraordinary situation resulting in New York State from Article IV, section 8 of the Constitution, which will be discussed at a later point. The New York proposal presumes a self-initiating unit, which will make objective and detailed examinations and studies of both quasi-legislative and quasi-judicial procedures and judicial review. It is to act as a "source" of technical information and expert assistance to boards, departments, and commissions; the responsibility for initiative and degree of "assistance" is not clarified, although there is a clear intention to leave "ultimate responsibility with the administrator, where responsibility should be lodged if effective and satisfactory administration is to be accomplished."

Both the Attorney General's Committee and the Benjamin study emphasize the advisory function of their recommended agencies in rule-making procedures, although the federal group would force each designated agency to specify a rule-making unit to receive suggestions and expedite the making or changing of rules, subject to the agencies' control and supervision. The Benjamin suggestion is very simple. The proposed division is "to assist, on the request of an agency, in the preparation or revision of its procedural rules" and "to receive from the public complaints and suggestions with respect to

procedures that are considered objectionable or subject to improvement." In addition, however, all rules are to be filed with the division, "for its comment and criticism, before being made effective." It will be noted that Benjamin is concerned here only with procedural rules. Where this classification stops and "substantive" rules begin is not clarified, nor is there consideration of the difficulty of determining when a rule is procedural in relation to the adjudicatory processes in administration and when it is indirectly involved through determination of a "managerial" problem.

A significant difference is found in the theories of responsibility underlying the proposed federal and the New York State agencies. The Office of Federal Administrative Procedure, as recommended, apparently is conceived as an adjunct, or closely related unit, to the Department of Justice. It is expected to have dignity and responsibility comparable to the Administrative Office of the United States Courts. Presided over by a board of three, two of whom are ex officio court officials (one a Justice of the United States Court of Appeals, designated by the Chief Justice of that Court in the District of Columbia; the other the director of the Administrative Office of the United States Courts), there is but one member selected because of special competence and understanding of public administration. This person, the director of Federal Administrative Procedure, is to be appointed by the President, with the Senate's approval, for a term of seven years. No power to remove exists, unless the office should be judicially determined to be within the scope of the Myers case. Such a central agency could well be expected to lend sympathy to administrative processes reflecting the values of lawyers.

Commissioner Benjamin recommends, by contrast, that his division be headed by a single director. The term of office is at the "pleasure" of the governor. There is no official connection between the division and the Attorney General's office nor with the courts. Whereas the Attorney General's Committee sought to separate the supervision over the administrative system from executive control, the Benjamin proposal undertakes to make the division another element in the governor's power over administrative procedures and processes. Commissioner Benjamin has consistently emphasized the separate and coordinate nature of the administrative processes; the Attorney General's Committee felt that some form of lawyer-like influence ought to be elevated as the foundation for greater uniformity. The dissimilarity in the two perspectives is further emphasized by the fact that the staffs of both the Benjamin and the Attorney General's Committee were lawyers and that Mr. Benjamin and his counsel, Francis H. Horan, attended the preliminary discussions in which the Attorney General's Committee program was partially projected.

In the rule-making processes, however, the Benjamin report is governed by conditions peculiar to New York State. Article IV, section 8, of the Constitution, adopted in 1938, provides as follows:

> No rule or regulation made by any state department, board, bureau, officer, authority or commission, except such as relates to the organization or internal management of a state department, board, bureau, authority or commission shall be effective until it is filed in the office of the department of state. The legislature shall provide for the speedy publication of such rules and regulations, by appropriate laws.

Pursuant to this provision, or the latter part of it at least, the legislature in 1939 passed a bill providing for the compilation and publication of administrative "codes, rules and regulations" under the direction of the director of the state library in the Education Department. Governor Lehman vetoed this bill on the ground that it failed to carry out the purpose of the Constitution. Experience convinced Commissioner Benjamin that it is not easily possible to separate regulations relating to the organization or internal management of an operating unit from other rules and regulations. Hence he suggests "it will be a wise precaution for administrative agencies to file with the Department of State a variety of documents; and documents so filed will include some that in my judgment should not be published." Pressing this matter leads to the realization that all forms related to administrator-citizen affairs are properly included in the category of rules and regulations. Mr. Benjamin considered that a filed directory of the National Guard obviously served no purpose intended by the Constitution.

The possibility of any central planning through the control over rules and regulations involves consideration of the constitutional provision above. Some discretion must be delegated relative to definitions and particularly as to de-

sirability of publication. The Benjamin report recommends that the proposed Division of Administrative Procedure, in the Executive Department, assume the function indicated in the constitutional provision.

On Codes of Administrative Procedure

OTHER than the recommendation relative to setting up the new Division of Administrative Procedure in the Executive Department, the criticisms and suggestions of Commissioner Benjamin are particularized. This emphasis upon particularization, however, forces consideration of the practicability and utility of a code of procedure for quasi-judicial action. The minority "Views and Recommendations" appearing as an appendix in the Attorney General's Committee report brought the possibility of a code of standards of fair administrative procedure into consideration. This code went into detail with the purpose of substituting an alternative to the bill providing for an Office of Federal Administrative Procedure submitted by the majority of the Committee as well as incidently seeking to point out any discoverable deficiencies in the bill itself.

Commissioner Benjamin swung to the opposite extreme from the code recommended by the Attorney General's Committee minority. He denied the possibility of attaining desirable uniformity through enactment of a general procedural code. In his scale of values the "legitimate interest of uniformity" could be attained through this method only by "sacrificing interests of greater value," because of the great divergencies within the administrative system. If one limits his horizon to the type of code proposed by the minority of the Attorney General's Committee, there is compelling persuasive force in the Benjamin conclusion. However, as Mr. Benjamin marshals and orders his evidence to support his thesis, he is forced to make a beginning toward classification of differences. The data are complex and somewhat bewildering but need not require the determination that generality in guiding procedures is impossible, nor that codification is beyond achievement in the future. When the apparent confusion can be ordered through greater understanding, based upon continuous and progressive scholarship, the attainment of standards supporting codification may prove quite possible.

It might well be argued that the success of the proposed Division of Administrative Procedure would be in the accumulation of data and insight conducive to gradual codification, with emerging patterns of uniformity and disuniformity related to the actual situations found from experience. Thus while denying the possibility of drafting a code of administrative procedure in terms of existing data, Mr. Benjamin takes significant steps that may prove fundamental to the attainment of eventual administrative procedural codification. In addition to bringing order to varieties of administrative processes and proposing continuous institutional emphasis upon further orderliness, he makes another contribution in his statement of what might be called "principles" of some aspects of the administrative process.

Some Particularities

THE Benjamin report is rich in provocative suggestions and any discretion-exercising administrator could find substance in its pages. A principal purpose of the report was to make it a guide and manual for administrators. In the view of its author, this characteristic distinguishes the report, more than anything else, from the other literature in the field. Because of the emphasis upon the unique and peculiar in particular agencies and processes, it is difficult to make generalizations beyond scope, method, and perspective. It might be observed that the doctrine of the Arlidge case [1] is not advocated. The standard of fairness which Mr. Benjamin upholds involves a relatively full disclosure of the administrator's hand and disavows secrecy as a haven for what might otherwise pass as expertness.

While judicial rules of evidence are found inadequate as criteria to guide administration, Mr. Benjamin does not avoid difficulties by falling into stereotypes about "informality." He explores honestly and painstakingly the problems of unduly extended cross-examination and administrative responsibilities relating thereto; the problem of control of disorderly, contumacious, or contemptuous conduct at a hearing; the use of oaths; the fundamental problem of keeping an open mind and at the same time seeing that preformal hearing processes are responsibly performed. The claims of expeditious procedure as against

[1] House of Lords. (1915) A.C. 120.

completeness of protection of personal interests are discussed, with sympathy for both the citizen and the administrator's viewpoints. The keeping of records is given critical attention with a clear-cut discussion of the difficulty of competent review, either administrative or judicial, when records are inadequate. The question of proper qualifications to practice before administrative agencies is left open generally, but emphasis is placed upon the propriety of vesting this power in particular agencies to be exercised in light of their experience. No especial difficulty is seen in the appearance of nonlawyers as counsel. There is no hesitation to recommend the enactment of statutes when confusion in practice or problems of construction exist. While conferring contempt power on administrators is considered more likely to have bad effects through fear of its abuse than to have advantages in administrative efficiency, there is a recommendation that a statute "authorizing application to a court to punish for contemptuous conduct in an administrative proceeding or to enforce, by contempt proceedings, obedience to the proper rulings and directions of the hearing officer" be enacted. There is a sense of authority underlying the discussion of administrative adjudication that comes from complete grasp and familiarity.

In the more brief discussion of quasi-legislative procedure there seems less complete mastery. This part of the report is brief and lacks the wealth of illustration that makes the discussion and recommendations relative to quasi-judicial procedure so substantial. There is only restricted consideration of the processes of rule making largely because attention is devoted to those aspects of the subject most intimately related to the administrative adjudicatory processes as projected in Mr. Benjamin's instructions from the Governor. Compared with the treatment of quasi-judicial processes, there may be an overindulgence in academic classification as, for instance, when subject matter of regulations is considered as procedural, interpretative, or legislative in nature. There is, however, an attempt to keep the discussion as free as possible from falling to the level of merely determining what meets legal requirements and what does not. This section emphasizes the administrative methods of rule making in terms of desirable policies.

The final part of the report is concerned with scope and procedures of judicial review. Much of the detail is peculiar to the statutes and case histories of the law in New York State. This characteristic is intensified by Mr. Benjamin's concept of the purposes legitimate to his charge. He introduces his consideration of this subject with the statement:

> Generally, I shall discuss only those [problems] as to which I have some specific recommendation to make, or which I consider worth comment for some special reason. Many problems must, in my view, be worked out by the process of judicial decision, rather than by legislation; while I shall comment on some of these, I shall not attempt even to mention all. Other problems with respect to procedure on judicial review, which may call for legislation, should in my judgment be left to the consideration of the Judicial Council.

Suffice it to state that Mr. Benjamin concludes that judicial review should not be generally expanded in New York State, that the substantial evidence rule should have general operation in judicial review of administrative determinations, and that it is not desirable that the reviewing court be permitted to substitute its judgment for a rational judgment of the administrative tribunal. Greater clarity would have been given to this part of the report had fuller definition been undertaken of the three types of quasi-judicial determinations which are distinguished—determinations of fact, determinations of law, and determinations of discretion. As the report points out, the precise lines of distinction are not always clear, accurate classification in a given case may be impossible, and a single quasi-judicial decision may, of course, involve determinations of all three types. To proceed within this frame of reference may be recognition of an actual and irreducible state of confusion, or it may evidence undue reliance upon a stereotyped classification not critically adapted to bring a maximum of orderliness and understanding from the data sifted.

Conclusions

IN THE introduction to the second edition of his *Cases on Administrative Law* Ernst Freund wrote: "Administrative law continues to be treated as law controlling the administration, and not as law produced by the administration." When Commissioner Benjamin writes that "the most satisfactory procedure [of administrators] may call for more than due proc-

ess alone would require" (p. 85) and "the consideration of fairness to the parties affected by administrative action lies at the foundation of the question of policy" (p. 86), it can be appreciated that a shift in emphasis is leading toward the emergence of a discipline concerned with the law produced by the administration. Considering that the Benjamin staff was comprised exclusively of lawyers, it is not without significance that "Judicial Review" is accorded but forty-two pages, whereas quasi-judicial and quasi-legislative procedures of administration are allocated three hundred and three.

From the vantage point of the development of the "law produced by the administration" both the Attorney General's Committee and the Benjamin reports are exploratory rather than definitive. From this viewpoint the report of the Attorney General's Committee proposes a degree of detail that is probably immature. The Benjamin report, however, is primarily concerned with over-all recommendations to further the knowledge of the administration possessed by the planning authority under the executive, leaving the development of particular codifications of standards and practices to the future. The Benjamin report emphasizes criteria for evaluation of the administrative process and the premises underlying particular recommendations have a degree of unity and clarity as a result. It makes use of traditional classifications, such as licensing, ordering, rule making, etc., but denies the utility of the classifications as the foundation for universal standards. In doing this the direction toward realistic breakdown of these larger categories into more descriptive subclassifications is indicated with the necessity of postponing the development of universal standards until further examination has been undertaken.

The direction indicated by Commissioner Benjamin in recommending a Division of Administrative Procedure, although generally valid, may be subject to the criticism that it must operate in a world of other planning agencies, such as budget, civil service, and the type of administrative planning agency given prominence in the recent publication by the Civilian Personnel Division of the Office of the Secretary of War.[1] The capacity to plan administrative enforcement and rule making in terms of policies cannot be so easily isolated. Moreover, the creation of the type of agency recommended by Commissioner Benjamin would raise questions of advisory jurisdiction over the preformal and even the more distinctly managerial policies of agencies. Probably a shortcoming in the validity of conclusions of both the New York and the federal studies is to be found in the emphasis upon the more formal aspects of control, with a groping uncertainty as to the preformal or informal processes underlying the functions critically studied. This conclusion points a direction for further study before the place of a Division of Administrative Procedure can be determined relative to the claims of other agencies exercising planning functions.

There is an absence of critical consideration of the relationships existing administratively between state and local administrators, and but slight treatment of the problem of civil service in the report of Commissioner Benjamin. Parallel bodies of data are entirely excluded from the report of the Attorney General's Committee. Perhaps these as well as considerations of procedures of "service agencies" should be given attention before the institutionalization of advisory authorities over rule-making and enforcement procedures is given authoritative scope. Generally, however, the Benjamin report must be accorded a very high place in the literature of public administration and public law. Its long-range influence will tend to bring the academic disciplines closer together in seeking the development of professionalism in administration. It is a keystone in the development of a new emphasis in the study of government for every student seeking realistic understanding of administration in the American tradition.

[1] *Administrative Planning Agencies in the Federal Government* (1942).

Current Problems in the Housing Field

By Ira S. Robbins, Counsel to the New York State Commissioner of Housing

NEW YORK CITY BUILDING CONTROL, 1800–1941, by JOHN P. COMER. Columbia University Press, 1942. Pp. 289. $3.25.

STATE HOUSING AGENCIES, by DOROTHY SCHAFFTER. Columbia University Press, 1942. Pp. xiii, 808. $7.50.

THE movement to improve housing conditions in this country proceeds with a double-barreled program. The first weapon is the planning, adoption, and execution of a long-range public housing program by federal, state, and local agencies. This program is to be supplemented by the efforts of private enterprise working through limited dividend, cooperative, institutional investment, and urban redevelopment housing enterprises, which will differ widely in their character and scope. The second weapon, equally important, is the adoption or revision of regional and city plans, zoning ordinances, building codes, and tenement house laws, in accord with modern standards. These aim to halt the spread of blighted and substandard areas and to establish permanent and stable neighborhood communities. They must have sufficient teeth in them to enable administrative officials, backed by an educated public, to achieve results. In housing parlance, the bases of these two arms of the service in the war on decaying cities are commonly referred to respectively as constructive and restrictive housing legislation.

In a recent monograph Mr. John P. Comer discusses one aspect of the restrictive legislation upon which this second phase of a housing program is predicated. He has studied the administrative structure of the agencies charged with the enforcement of the building code and related laws in New York City. The author does not pretend to cover the substantive provisions of the codes, nor does he describe, from the social, economic, or housing points of view, the good or bad results of the provisions of these codes.

Mr. Comer traces the history of building control in New York City from about 1800 to date. He enumerates the changes in the type of control brought about from time to time by new legislation and discusses the interpretations, reasonable and unreasonable, of that legislation made by honest and dishonest administrative officials. The author concentrates on the use and abuse of discretionary powers and the unsuccessful efforts to achieve complete centralization of power in one official agency. Because New York City is an amalgamation of a large number of villages and communities, because its various boroughs contain types of residences that are distinctive in construction and use, and because owners and builders have used their connections with politicians to bring about compromises and setbacks adverse to the public interest, the fight for the best administrative organization is not yet wholly won.

Under the present charter of New York City, the Department of Housing and Buildings is the central agency which has the primary powers relating to the approval of plans for new buildings, the inspection of new and existing structures of all types, and the enforcement of all laws applicable to such structures. Despite this centralized arrangement, in many cases the commissioner of housing and buildings has but a theoretical control, because the superintendent of buildings of each of the five boroughs which comprise the city has the power to circumvent the commissioner's policies or decisions. This weakness, flowing from a provision in the charter which provides for the internal decentralization of functions of the whole department, may be offset, according to Mr. Comer, by the coordinating powers of the mayor, who is assisted by the commissioner of investigation. The author admits that the comfort to be derived from the policies of the present administration in this regard may be short-lived.

The self-imposed boundaries of the author's research and exposition limit the audience to which this volume is addressed. To public officials and housing officials generally, this study will have but little appeal. To students and officials concerned with problems of public administration in large cities, it will be of considerable interest as a carefully compiled case history of the unsatisfactory experience of one municipality.

The constructive side in the fight for better

housing is pictured in another recent volume. Professor Schaffter has made a pioneering and exhaustive study of what has been done in the housing field in the ten states having active agencies and in the twelve states having agencies in name only. Though she deals primarily with problems of administration and administrative machinery, she has been far from strict in defining the boundaries of her treatise. The volume contains the legislative history of each state agency and a good deal of material on their personnel, budgets, policies, and achievements.

One may question the relevance of some of the detail in the text and the value of some of the many tables and charts which Professor Schaffter has painstakingly compiled and constructed. Undoubtedly most of them will be of interest to students of public administration. However, the conditions and programs in the ten states which have had active agencies are notable for their differences and not similarities. Consequently there is no common denominator to measure the results that have been purchased with the state appropriations or obtained with the personnel of the various state agencies. I doubt that comparative tables on these items will help either administrators or policy makers.

This writer does not concur with some of Professor Schaffter's comments on certain aspects of the program of the New York State Division of Housing, but on the whole, her frank, forceful appraisal of the policies and achievements of the few state agencies that have been at all active is sound and stimulating.

Up to now there has been a wide gap between federal and municipal action in the housing field. Professor Schaffter shows persuasively that that gap should be filled by having the states assume their proper place without further delay.

This eight hundred page treatise includes a review of every important article dealing with the administrative organization of housing agencies and discusses how a housing program should fit in the usual federal-state-municipal pattern that has been successfully used in carrying out education, social security, and other social functions assumed by government.

The final chapter is probably the most important. It sets forth a program that states could and should undertake, the relationship of the state program to that of the federal and municipal governments, and the author's ideas on the appropriate type of structure for state agencies. Professor Schaffter has written a new "bible" for the shelf of housing literature—one designed to be read and not to gather dust.

Professor Schaffter advocates direct construction of public housing projects by state agencies in areas where the need is great and where municipal officials fail to take appropriate action. Public housing got its real start in 1933 when it was part of the PWA program, but resentment by municipalities against federal construction and ownership gave impetus to the somewhat more decentralized program authorized by the United States Housing Act of 1937. It is true that today, because of the war, the government housing program is again highly centralized, but even the war has not been a sufficient reason to eliminate the prejudice and opposition to federal housing. In my opinion, direct construction by the state in communities which fail to do the job would not succeed. The only exception would be in rural areas and very small towns, where the failure of the locality to act is due neither to apathy nor opposition but to financial and other considerations beyond the control of the community.

Here are two books which deal respectively with administrative aspects of some of the restrictive and constructive housing legislation referred to at the outset of this review. Their publication in the same year by the same distinguished publisher serves to reemphasize the need for studying an extremely important problem which, because of limitations of space, can only be mentioned here. The basic question is whether or not, because of their close connection with the existence of good and bad housing, it is necessary or desirable to keep the administration of these laws and programs in the hands of different agencies or officials. Professor Schaffter points out that in Massachusetts the "housing program" soon became "housing and town planning," and, in turn, merely "town planning." In California the "immigration and housing" program developed away from public housing, as we now use the term, and the enforcement of building codes and sanitary regulations remained as the sole housing function. Should there be any official working relationship between a building com-

missioner and a housing authority? What part, if any, should a housing authority, which now constructs and manages public housing, play in bringing about the revision and enforcement of building codes and zoning laws? Is coordination and not centralization the answer? Should the city council or the planning commission formulate policies and leave their execution to the various separate administrative agencies?

The public housing movement is growing and, hence, is suffering from growing pains. One of these pains is a headache that is likely to be the source of controversy in many sections of the country for years to come. It arises from the fact that nearly all local housing authorities consist of three to five unpaid members, whose policies are put into execution by a paid executive director. As the number of projects increase in a city, the job of managing them becomes a tremendous business. Decisions must be made, and quickly. Hence the demand in large cities like New York and Chicago for a single, full-time, paid administrator. At the present time in New York City, the controversy, at first confined to interested but small groups, seems to be spreading and gathering heat. The pros and cons are many and will not be discussed here. When it comes out in the open completely, we will have a field day on the theory and practice of local housing administration.

If any cities in the United States have the misfortune to be the victims of heavy enemy air raids, an opportunity to experiment with the coordination of restrictive and constructive techniques will be at hand. At the moment, the discussions in circles interested in planning, housing, and postwar reconstruction revolve about the following proposal. As soon as the first serious damage occurs, all reconstruction, except that required for health or emergency reasons, will be prohibited for a fixed period. A reconstruction commission, or perhaps the city planning commission, will have the power to approve or disapprove all rebuilding in the damaged areas. All new construction, public or private, industrial, commercial, and residential, will be subject to the jurisdiction of the reconstruction commission. It will be necessary to dovetail and coordinate the functions of existing municipal planning, building, and housing agencies with those of the reconstruction commission.

Basically the idea is to bring about reconstruction on a large scale and on a planned basis. It is conceivable that it may be the wedge by which a foothold will be granted to techniques for the pooling of land (e.g., the Lex Adickes, by which each property owner surrenders his parcel of land and receives in return an equivalent parcel after the pooled area has been replanned). The proposal of large-scale reconstruction, though beset with many problems of policy and law, has exciting possibilities. It is to be hoped that such reconstruction can be brought about without the stimulus of enemy action.

Headquarters and the Field

By David B. Truman, Foreign Broadcast Intelligence Service

WASHINGTON-FIELD RELATIONSHIPS IN THE FEDERAL SERVICE: LECTURES and PAPERS, by DONALD C. STONE, EARL W. LOVERIDGE and PETER KEPLINGER, WILLIAM L. MITCHELL, JAMES W. FESLER. Graduate School, U.S. Department of Agriculture, 1942. Pp. 60. 35c.

WHILE the United States has not yet found itself under the necessity, recently faced by the British government, of preparing for completely decentralized operation, this distinguished little publication testifies to the fact that the problems associated with such a development are receiving increasing attention from federal officials—although for quite different reasons. It is peculiarly appropriate that it should appear under the auspices of the Graduate School of the United States Department of Agriculture, itself a symbol of forward-looking developments in public administration.

Three of the four contributions are lectures selected from a series given in Washington a year ago under the joint sponsorship of the Graduate School and the Washington chapter of the American Society for Public Administra-

tion. If these are representative of the whole, we may share Director Eldon Johnson's regret that the pressure of war duties prevented inclusion of the remainder. Stone leads off this collection with a challenging survey of some of the salient problems in the field administration process, and Fesler offers an equally stimulating analysis of interdepartmental relations in the field service. The broader treatments are effectively complemented by Mitchell's examination of the experience of the Social Security Board and by the specially prepared paper of Loveridge and Keplinger on the Forest Service.

Perhaps the outstanding impression given by this pamphlet is that we still know comparatively little about the general process of field administration. Only the bold or the harassed would venture to define without qualification what is verified "good practice" in this area. Individual federal agencies, like the two ably analyzed here, have felt their way toward a workable solution of their own problems. Few of these insights, however, apply appropriately to more than a single agency at a given point in its development or go beyond the level of unverified hypothesis. The whole question of measurement, for example, remains unanswered. When is an agency decentralized as far as possible? When are an agency's field relations at a peak of effectiveness? Under what circumstances should any of the various parts of an agency be decentralized? Where should the auxiliary services fit into the organization? Should formal coordinating mechanisms be set up in the field? Under what circumstances? What type and degree of headquarters control are indicated under various conditions? These are typical of the questions which students of administration are not yet prepared to answer in terms of general principles.

The problem of Washington-field relationships raises a whole range of administrative nightmares. Stone suggests quite properly that the remedies are made up of elements "common to administration of any sort . . . translated into terms of field administration processes." Yet the dimension added to administrative problems by the range of field organization makes the combination so different in degree as to appear almost different in kind. One may be justified in suspecting that a failure to recognize this added complexity has permitted administrators to hide their derelictions behind advocacy of decentralization and has allowed them to claim without danger of challenge that their organizations are as decentralized as possible.

The field administration problem is not covered by arguments for and against decentralization. As Loveridge and Keplinger put it, "Field relationships vary with the degree of decentralization, and decentralization varies, or should vary, with the job." In probing in this broad area the authors range over a number of general and specific problems which make the field-headquarters issues distinct and which seem to converge at three main points: first, the delegation and control of authority; second, the coordination of field activities; and third, what may be called, for want of a better term, the problem of milieu.

Stone strikes close to the heart of the delegation-control dilemma in pointing out the ignorance on the part of top headquarters officials of the imperatives concerning what should be delegated, which results in delegation often occurring only in combination with a rigid system of check-controls in Washington. The top official, feeling the weight of the responsibility placed upon him, tends to countenance his own mistakes and those of his immediate subordinates in Washington rather than pay the price of field office mistakes in exchange for more effective field operations. One of the desirable results which may accrue from the emergency "decentralization" program, which so far seems to have gone no farther toward decentralization and a solution of the problem of delegation than getting a few thousand employees out of Washington, may be to demonstrate to top officials that all decisions in an agency do not have to be made at headquarters.

A lasting solution to the problem of delegation probably waits on the answers to a wide range of complex administrative questions, such as the extent to which the reluctance of the ambitious bureau chief to delegate may stem from the fact that, having reached the pinnacle of the career hierarchy, he still has strong drives to retain and exercise considerable authority over daily operations. Nevertheless, as all the authors agree, a working solution is necessary not only for the individual agency but for whole departments as well if a unified impact upon field offices is to be achieved. It must become

possible to determine under a given set of circumstances just what powers should be delegated to the field. At the present time progress has not been made beyond the point of saying that delegation is necessary if the operation is "of a field service character" or "if decentralized authority is needed for the job at hand."

The descriptions presented here of the Forest Service and the Social Security Board illustrate admirable solutions to this problem which contain a number of hypotheses for more general verification. The arrangements they illustrate have been worked out in conformity with the more or less implicit controlling variables residing in the two situations. The question suggested by these discussions is whether such arrangements can be extracted from the experience of many agencies, and then generalized. Can rules in this area become as well documented as, for example, the principle of unity of command, or must they remain rule of thumb?

While such specific guides are not yet available, a few general prescriptions offered in these pages seem to demand observance. In the first place, if the field service is to operate effectively, it must be provided with the necessary tools of management. "The manager of a large field office," Stone urges, "must engage in budgetary planning and follow-up, personnel management, and program planning, and he must have staff to assist him in the general task of direction and coordination of operations. He can't rely on budget and personnel staffs in Washington to perform his management job. . . ." While budgetary considerations may forbid generosity in determining when a field operation is sufficiently large to require its own management tools, there seems little danger at present that federal agencies will go too far in this direction. To these management tools, moreover, might be added, especially in the case of agencies performing licensing and regulatory functions, at least some legal operations. It would have been valuable if the experience of the Forest Service in this matter had been discussed, for it may well be that in a good many instances the organization of legal divisions is a major obstacle to adequate delegation.

Another well-verified prescription in the area of delegation is that the planning process must include the field. Much of the experience on which the planning of new programs and the revaluation of old ones must rest is being acquired in the field. The number of agencies is still very large, however, which can "chalk up a black mark" against themselves, as Stone puts it, for sending out directives on fundamental policies which "hit the field 'cold.'" The remarks of Loveridge and Keplinger on this point are especially suggestive. Their testimony clearly indicates that failure to make planning a process in which all levels of the hierarchy participate stifles competent administrators, accentuates the gulf between headquarters and field, and constitutes good evidence that the agency is being operated in terms of the rigid predilections of the top administrators and not in realistic terms of the agency's purpose.

On the reverse side of the delegation question—headquarters control—Stone vigorously indicts what he calls the "check-control" approach: "line item budgets, transaction reviews, preaudits of cases, and . . . the writing of voluminous letters and memoranda prior to taking action that is urgently needed." It is encouraging to see such a forthright challenge of a bureaucratic sacred cow, in a sense a holdover of the reluctance to delegate. Stone is not so specific in describing the supervisory alternative, but a most promising atmosphere for its growth certainly would be provided by what he calls the "consultative management approach" and in the long run by the rotation of personnel which he so warmly advocates and which Loveridge and Keplinger support on the basis of their Forest Service experience. The problem of headquarters supervision seems to be in large measure one of communication and understanding. The apparent necessity for rigid "check-controls" may arise from the failure of an agency to establish a system of communication and understanding that will assist both Washington and field officials to know their operations as a continuous, interrelated process.

The matter of headquarters control and leadership raises a question which several of the authors treat tangentially, namely, whether delegation of authority to the field is a function of agency "maturity" and, if so, at what stages in the life of an organization it should take place. Stone calls attention to the necessity of planned changes in organization and procedure with the passage of time, and Loveridge

and Keplinger tell some interesting stories from the history of the Forest Service. The suggestive remarks in all these papers indicate that the approach to standards of "good practice" in headquarters-field relations might be speeded by developmental studies of organizations like the Forest Service and the Social Security Board, which have pioneered in experiments with decentralization. It is to be hoped also that the Advisory Committee on Records of War Administration will explore this question in connection with the decentralization of the operations of the War Production Board and similar emergency agencies, for a time formula concerning delegation might be worked out of the documented experience of a number of such organizations.

It is obvious that the problem of coordination of field activities emerges as soon as operations of considerable size and complexity are undertaken. Coordination in a comparatively simple organization is a problem at the Washington level rather than in the field. Unified supervision under the regional forester, for example, seems to have sprung as readily from the "nature" of Forest Service operations as did decentralization. Even superficial examination of an agency like the War Production Board, however, indicates that no such regional unity of command is an inevitable or even a possible result of the agency's functions. The Social Security Board seems to lie near a midpoint between these two extremes, and Mitchell's lecture provides insights which not only are directly helpful to agencies in roughly the same position but also suggest partial solutions for the problem of achieving some degree of necessary field coordination in agencies of much greater complexity.

Faced with the challenge of disparate functions, the Social Security Board has had to deal with the problem which Mitchell properly characterizes as a "classic," namely, administrative versus technical supervision in the field. The continuing problem of the Board thus has been to protect the authority of the regional director against complete supervision of his subordinates by the technical divisions in Washington. Mitchell makes no claim that it has been solved. A major factor in the successful approach to a solution has been the caliber of the regional directors. More significant for a developing theory of field organization, however, is the influence of a common experience in understanding and meeting the social and economic problems of a region. Collaborative attack upon related problems of a given area apparently has unified the regional staffs and in large measure has settled the issue of the "broken versus the solid line" from bureau chief to regional representative.

In the Forest Service, on the other hand, where unified field direction has been a "natural" function of the agency's responsibilities, identification with the region, which did not have to be emphasized for purposes of coordination, has presented problems of provincialism which have had to be met by rotation of personnel. The experience of these two agencies indicates more eloquently than any amount of theorizing *in abstracto* the powerful coordinating force which can be exerted by cooperation in a many-sided offensive against the problems of an area. Moreover, it may well be an influence as significant for interagency as for intra-agency coordination in the field.

The question of interagency coordination, however, waits upon a concerted attack on the field relations problem by individual bureaus and departments, as Fesler explicitly recognizes. Experience with the Federal Coordinating Service and the National Emergency Council has indicated the potentialities in this area, but it has also demonstrated that they cannot be realized by pressure upon agencies and their field staffs from an outside source. Fesler suggests plainly that underlying his six factors facilitating interdepartmental coordination in the field is the overwhelmingly important Washington problem. As he puts it, "the majority of the significant instances of conflict and duplication in the field do not originate in the field, but have their source in Washington. . . ." Field men, he suggests, cannot be blamed for faulty field coordination if some of them exercise wide discretion and others "are not allowed to open their mouths without wiring Washington for permission." Moreover, good interagency field coordination cannot be expected if the region whose problems are to be coordinated has no administrative existence. Both of these are Washington problems.

In a sense, of course, most headquarters-field issues are Washington problems. This is certainly true of the problem of milieu, which the analyses in these lectures indicate to be of

underlying significance. In the process of field administration it is necessary to consider the social and political as well as the physical conditions under which the field unit must operate. The physical aspect of the problem is pretty generally recognized. In a case like that of the Forest Service it is fairly obvious that the timber and wildlife which form the major basis of the agency's work are not the same in the Douglas fir region as in the long leaf yellow pine area. As Loveridge and Keplinger demonstrate, the field organization of the Forest Service is based on a recognition of those differences. By and large, however, administration has less readily recognized the significance of the variation of human behavior patterns than the less debatable regional arrangement of flora and fauna. Mitchell's careful review of the growth of the Social Security Board, which has been based largely on the calculation of population distribution and of transportation and occupational patterns, again testifies to the achievement which it represents, one which unfortunately is not yet typical of federal administrative organization.

Students of administration have recently been indebted to Schuyler Wallace for reminding them of the danger of making prescriptions in organization without considering all the relevant social circumstances surrounding the unit under examination. They will pay a high price in loss of usefulness if they fail to examine the assumptions underlying their work, if they make the error of forgetting that public administration is a particularly promising scientific offshoot of the ancient art of politics. The discussions in this pamphlet seem to justify the opinion that the problems of Washington-field relationships accentuate the consequences of such an error, because in this area it constitutes neglect of the problem of milieu. The determination of what authority can and, therefore, should be delegated in a given situation, the resolution of the perennially troublesome misunderstandings between headquarters and field, the solution of many aspects of the problem of unified field supervision, the whole matter of adapting field operations to the job at hand—these issues seem to depend, to a greater extent than has generally been recognized in a formal manner, on the assumptions concerning the processes of American society which underly the study of administration.

One may well ask, for example, how the pattern of delegation should develop in an agency dealing with "publics" which are unorganized and largely unaware of the potential benefits of a program. Should the pattern be different where these publics are unified under the leadership of a nation-wide organization capable of bringing effective pressure upon the Congress, where some are organized and some are not? What variations are imposed by the necessity for dealing with clients through state officials? The pressure of events not infrequently seems to force oblique consideration of such questions after an organization has been set up.

A highly promising approach to the problem is implied by Fesler's excellent suggestion that studies be made of individual communities to determine the effectiveness of the impact of the federal government on a typical segment of the population. The suggestion was intended as an aid in developing interdepartmental field coordination, but it is equally valuable for individual agencies which have tended to forget the ultimate citizen-consumer in setting up their field organizations or whose arrangements have become obsolete.

One need not be clairvoyant to predict that the problems surrounding headquarters-field relations will become increasingly acute in the months and years to come. This collection of papers is a significant contribution to the meager literature on these questions. More important, it is evidence of effective official efforts to answer them.

Contemporary Topics

IN THE national war administration, the principal changes of the past three months have been in the direction of consolidating the programs of the several war agencies into a single program so that, for example, a war production official will take into consideration the manpower aspects of his operations, a manpower official will consider the housing and welfare aspects, and a housing official will think of problems of war production and priorities.

This type of program integration has become more and more necessary as each agency discovers that in planning and administering the full use of all national resources any action needs to be based on a balanced consideration of every aspect of national policy.

As the chairman of the War Production Board said early in October, a joint "strategy of civilian production" must be developed by the War Production Board, the armed services, the War Manpower Commission, and other government agencies and must be integrated with strategic plans for warfare.

Control of Production and Materials

THE hazy line between the functions of the War Production Board and those of the Army Services of Supply was clarified somewhat late in September when Ferdinand Eberstadt, formerly chairman of the Joint Army and Navy Munitions Board, was appointed vice chairman on program determination of the WPB. Mr. Eberstadt was also made chairman of the Requirements Committee of WPB, and the newly appointed director general of operations, Ernest Kanzler, was directed to report to the WPB chairman through Mr. Eberstadt. The director general of operations is in charge of the industry and materials branches and the field organization of WPB.

Since early in September authority to assign preference ratings to individual Army and Navy contracts has been exercised by WPB district offices instead of by the procurement and contracting officers of the armed services. Before that time preference ratings were assigned to military orders in the field by procurement and contracting officers in accordance with broad directives prepared by the Joint Army and Navy Munitions Board with WPB approval. The new system, which thus comes under the control of the vice chairman on program determination, will provide a more careful accounting of the quantities of materials to which ratings are assigned. It is a step toward synchronizing more exactly the allocation of contracts with the allocation of materials.

As a result of the stricter system of control, the WPB announced early in October that for the first time the total authorizations of raw material for military and nonmilitary production for the following three months had been kept within the limits of the estimated supply. Final allotments were made by the Requirements Committee, which returned to applicants their authorizations to receive materials under the production requirements plan with requests cut down in accordance with several basic principles: total requests were kept within total supply; the items most urgently needed were provided for first; requests were reduced where companies had sufficient stocks on hand; and cuts in the allocations of various materials to a company were made in balance so that the cuts themselves would not result in surplus supplies.

To develop for the vice chairman on program determination an over-all national production program, a new program coordination division was set up late in September. A constant check and control on the production program will be exercised by Charles E. Wilson, president of the General Electric Company, who was appointed vice chairman of the WPB and chairman of its Production Executive Committee. The committee with which he will work will include the commanding general of the Army Services of Supply, the commanding general of the Matériel Command of the Army Air Force headquarters, the director of Procurement and Material of the Navy, and the vice chairman of the United States Maritime Commission.

A committee on the concentration of production has been appointed by the WPB to make arrangements for closing or converting to war industry factories using manpower, electricity, fuel, or transportation that could be put to better war use elsewhere. The order closing the gold mines was the first curtailment of industry that was based entirely on the need for economizing in the use of manpower.

Manpower

"WE ARE learning to ration materials, and we must now learn to ration manpower," the President said in his radio address of October 12. His remarks on the manpower problem followed closely after statements by the chairman of the War Manpower Commission and the chairman of the War Production Board that new national service legislation would be needed for the conservation of human resources, and after an order from the chairman of the War Production Board that areas in which acute labor shortages exist shall be avoided in placing war production contracts.

The rapid increase in the number of men drawn into the armed services and war industries has led the United States to adopt various measures for the training, recruitment, and transfer of workers as the increasing urgency of the situation made more drastic action obviously necessary. Various forms of legislation for compulsory service in civilian occupations as well as in the armed forces are being discussed and drafted.

Aside from the example of Great Britain, which long since has set up a thoroughgoing administrative system for allocating all possible skills to the national service, the United States has before it the example of Canada, where, on September 1, all employment went under the control of the government through the director of National Selective Service working with the Ministry of Labor and the National Defense Department. The four principal regulations of the tightened control in Canada are:

1. No employer may dismiss any employee and no employee may quit any job without giving seven days' notice in writing.
2. All employers must report to selective service employment offices their future labor requirements and must fill their current labor needs only through these offices. No employer may advertise in any way for employees except with the approval of the selective service officer.
3. No person capable of working may remain voluntarily unemployed and any person jobless for more than fourteen days can be ordered to take full-time suitable employment.
4. No person may look for a job and no employer may hire any worker unless that person holds a selective service permit to seek employment.

In the United States, the War Manpower Commission during the last three months has sought to halt the needless migration of workers, discrimination against minority groups, pirating of workers, and other practices that disrupt the labor market and slow up production. In order to smooth out its administrative operations, President Roosevelt transferred to the War Manpower Commission, on September 17, the United States Employment Service and all functions of the Social Security Board relating to employment service, the National Youth Administration, the Apprenticeship Training Service, and the Training Within Industry Service. He specified that the Apprenticeship Training Service and the National Youth Administration should be preserved as organizational entities within the War Manpower Commission. Late in August, the Apprenticeship Training Service, then still in the Federal Security Agency, had effected a reorganization of its field offices into twelve regions in order to bring about a more effective integration of its activities into the war effort on regional, state, and local levels.

The most vigorous steps to keep workers in essential jobs or to transfer them to such jobs were (1) the War Manpower Commission's orders that workers in certain types of nonferrous metal and lumber industries in twelve western states should not be permitted to leave their present employment and (2) its steps to see that men released from the gold mines, as a result of their closure by War Production Board order, should not be transferred to nonessential jobs.

The chairman of the War Manpower Commission directed that no employer should hire anyone who had been a gold miner on or after October 7 except upon referral by the United States Employment Service and instructed the Employment Service to refer the miners only to

essential nonferrous metal mining, milling, smelting, and refining activities, subject to certain exceptions.

Agricultural Workers

Under a directive of the chairman of the War Manpower Commission, issued on June 22, 1942, the United States Employment Service was instructed to establish a close liaison with the Department of Agriculture, the WPA, the NYA, and the WMC to use as fully as possible all potential farm workers in harvesting food-for-victory crops.

The first workers to be moved to agricultural areas short of labor for the harvesting of vital crops left Danville, Virginia, on September 4 for western New York State. This contingent initiated a program administered jointly by the United States Employment Service and the Farm Security Administration. The United States Employment Service receives farmers' requests for workers and recruits labor. If the workers have to be brought from a distance of more than two hundred miles, the Farm Security Administration arranges for their transportation, their meals on the way to work, their housing, and, if necessary, their medical attention. The growers agree to pay $5.00 per person as their share of the transportation costs and to guarantee employment to the workers for a definite period at the prevailing agricultural wage, which is not to be less than thirty cents an hour or the equivalent in piece rates. If migratory camps are not available, the Farm Security Administration must approve the housing furnished to the workers, and it arranges for the workers' return transportation when their agreements have been fulfilled.

The prevailing wage rates in the various areas are to be determined by wage boards appointed by the Secretary of Agriculture, consisting of one representative from the War Manpower Commission, one from the United States Employment Service, and two from the Department of Agriculture.

To meet a specific emergency in the California sugar beet harvest, the War Manpower Commission asked the Farm Security Administration to bring 1,500 Mexican farm workers into the United States and to make sure of their welfare while in the country. Under the terms of an international agreement, contracts were made between the FSA and the Mexican workers, and the FSA then contracted with growers for their employment. Wages are to be set at prevailing rates as determined by the wage boards of the area. The Mexican workers are guaranteed the same conditions of employment as other workers in the area, and the FSA is responsible for seeing that housing and sanitary facilities are adequate and that Mexican workers are not employed to reduce standards of displaced domestic labor.

The state of Minnesota took action early in October to set up an emergency program to meet the serious shortages in the labor supply in dairy, livestock, and mining areas pending the expansion of the federal manpower program. Among the points of the program announced by Governor Harold E. Stassen were the opening of rural replacement offices staffed in part by county agricultural agents, a reduction of 20 per cent in the number of men employed by government or by nonessential employers, and the establishment of a simple procedure by which men and women on old-age assistance might accept employment and later reinstate themselves on the assistance program whenever they wish.

Special Skills

The United States Employment Service has conducted a survey of war production plants to determine their requirements for this year and 1943 for technical men—chemists, engineers, metallurgists, and other professional and scientifically trained men—and is now proceeding to help business fill these needs by drawing upon the National Roster of Scientific and Specialized Personnel. This roster, to which are also now being added the names of the scientifically and professionally trained persons who have registered for military service (brought to light through the selective service occupational questionnaire), has also been placed under the direction of the War Manpower Commission.

The Selective Service System, recognizing the fact that some local boards were calling men with dependents when others still had single men to draft, attempted to rectify this inequality, caused to a great extent by excessive decentralization of authority in the system, by instructing state directors of selective service to take this factor into consideration in apportioning calls for inductees among their local

boards. The Selective Service System and the Army and Navy are cooperating with the War Manpower Commission in its effort to keep out of the armed services physicians essential to civilian public health interests. The Advisory Committee on Public Health of the Procurement and Assignment Service of the WMC advised that full-time medical officers in charge of government health units or administrative districts, and full-time heads of administrative units within health departments, should not be taken for military service. The armed services are complying with this recommendation.

While the first federal war nursery and child-care projects were being organized, War Manpower Commission Chairman Paul V. McNutt created a Women's Policy Committee early in September to aid in mobilizing women workers for the war effort. It will work closely with the Commission's Management-Labor Policy Committee and advise the chairman on matters of woman power policy. Mr. McNutt estimated that 5,000,000 women will be employed in war production by December, 1942, and that the number would be over 6,000,000 by the end of 1943, when women will represent 30 per cent of the labor force employed in war production. On August 12 he issued a directive to the Office of Defense Health and Welfare Services to develop, integrate, and coordinate all federal programs for the day-care of children of working mothers. It required that Office to receive reports from and to coordinate the child-care programs of the Work Projects Administration, the Children's Bureau, the U. S. Office of Education, the Bureau of Public Assistance of the Social Security Board, the Farm Security Administration, the Federal Public Housing Authority, and other federal agencies carrying on child-care programs.

In Seattle and in Detroit mass registration of women to determine the number available for war production work had been carried out before the middle of August. In Seattle the city's Civilian War Commission and the U. S. Employment Service, and in Detroit the regional office of the War Production Board, managed the registration.

In Connecticut, the Vocational Rehabilitation Service, in cooperation with the Manufacturers' Association, the state medical society, and the psychology department of Trinity College and Yale University, has set up and is directing rehabilitation clinics for the handicapped, which are helping to supply manpower for war and other industries. The handicapped are given psychological tests, physical examinations, and interviews to determine how best their working capacities may be used. Seventy per cent of the persons tested and interviewed have been immediately placed in jobs, and 15 per cent have been referred for training for war production jobs.

Government Employees

In the federal government, the Civil Service Commission, under a directive from the chairman of the War Manpower Commission, was given authority, effective September 27, to transfer employees from one government agency to another without the consent of either the employee or the agency, whenever it is felt that such a transfer will make a contribution to the war effort.

The WMC directive was issued after an executive order of September 12 provided that policies established by the War Manpower Commission should govern the transfer of employees between federal agencies and between federal employment and private business.

The Civil Service Commission was also empowered to transfer an employee to a private enterprise when it is considered that he is more urgently needed in such an occupation, but in such cases the employee's consent is necessary although that of his federal agency is not. Employees transferred from one agency to another or to private employment are entitled to re-employment with the agency from which they are transferred at the same pay and in the same status. No employee will be transferred to a position of lower rank or at less pay. The Civil Service Commission is setting up appeal machinery to which either the employee or employer may appeal the decision of the Commission regarding a transfer.

Another WMC directive gave the Civil Service Commission authority to reclassify field positions in the federal service. The reclassification is expected to facilitate the transfer of government employees and to eliminate "pirating."

The Civil Service Commission, reporting on the transfer of employees from one executive agency to another as required by Congress, found that from March 1 to June 30, 1942, the

great majority of the 19,062 transfers that took place were definitely beneficial to the government service as a whole and to the war program in particular. The number of transfers to war agencies far exceeded transfers out of war agencies. On the other hand, the Commission reported some agencies had used their power to fix salary rates in the field service in order to outbid one another for the services of personnel to do work of the same degree of difficulty or responsibility. The Commission recommended that every agency of the federal government should assign to some responsible official the duty of facilitating the transfer of employees within the agency and that each agency should prevent transfers which do not contribute to the best utilization of skills. The Commission announced that it would undertake to accomplish the same objective with respect to transfers between federal agencies. At the same time the Commission announced its intention to help coordinate pay rates in the field service by reclassification and to take drastic steps to move personnel from less essential activities to those connected with the war program.

State and local governments, squeezed between the necessity of maintaining normal governmental services and the loss of key personnel to the armed forces, war industry, and the federal civil service, are hiring more women, waiving residence requirements, and lowering training and experience qualifications. While most agencies have not yet recalled retired employees back into service, this move will undoubtedly soon be made. A survey by the Civil Service Assembly completed in the second week in August showed that out of one hundred public personnel agencies about one-third are opening more jobs to women; two-thirds are transferring to other jobs employees of departments whose activities are curtailed by the war; 53 per cent are throwing open some jobs to nonresidents; 50 per cent are relaxing training and experience requirements, as well as physical standards; and approximately twenty agencies are making special effort to use physically handicapped persons.

City governments are adopting strict regulations on leaves of absence for employees who wish to go to high-paying war production jobs. Although those requesting leave for military service are receiving it without question, most cities are granting applications for leave to go into civilian jobs only when the employee has some special skill needed in war work, when a serious loss to essential city services will not occur, when his position can be filled easily by a temporary appointment, or when it can be left vacant.

Although now steadily increasing in proportion, losses of key personnel to war industries and the federal government were not great in comparison to those who went into military service during the first six months of 1942. A survey made by the U. S. Civil Service Commission at the request of the War Manpower Commission showed that for this period in twenty-two jurisdictions (six states, five counties, and eleven cities) 2,567 key employees were lost from a total of 51,153 positions. Of these essential workers, 1,626, or nearly two-thirds, left for military service, 372 were lost to war industries, 125 shifted to federal employment, and 444 to other jobs. More than half of the employees entering military service (977) went in of their own accord as enlistees or reserve officers, while only 375 were drafted. The remaining 274 were not classified in the reports as either volunteers or draftees.

Civilian Defense

As a result of its experience with thousands of local defense councils, the Office of Civilian Defense has set forth what it believes to be the organizational scheme local defense councils must follow "if they are to be successful in establishing effective civilian operations on the home front."

The local defense council set up according to OCD recommendations has two main functioning branches, a civilian protection branch and a civilian war services branch. The first has the task of organizing and training a force for the protection of the community during air raids and other enemy action. The second is to promote and integrate other types of civilian activity in such fields as salvage, transportation, war savings, housing, health, and nutrition.

The defense council also has two service sections, an information committee and a civilian defense volunteer office, to serve the operating branches. The information committee's task is to organize local media of information, including the press and radio, so that they will be immediately responsive to the needs of the

other branches of the council. The civilian defense volunteer office is a personnel recruiting office for the citizens defense corps and the citizens service corps, which carry out the programs of the civilian protection branch and the civilian war service branch respectively.

The size of the staff and the number of advisory committees depend on the size of the city. The medium-sized or large community, if it follows OCD recommendations, has a full-time director to develop and direct the entire program of the council. Activities are decentralized and carried to the public through neighborhood committees or through some type of block organization.

The work of the civilian protection branch is entrusted to a citizens defense corps, which consists of seven emergency services, each headed by a chief responsible directly to the commander of the corps. The commander of the citizens defense corps is responsible for the operation of the corps and makes all final decisions, but he is also the chairman of a planning committee which in a large community may have a number of subcommittees to advise him and to plan the protection program.

The seven emergency services recommended are a wardens service, emergency police service, emergency fire service, emergency medical service, emergency utility service, emergency public service, and emergency welfare service. The regular municipal services and emergency services may easily be coordinated if the heads of regular departments are made the chiefs of the emergency services. The commander of the citizens defense corps has sufficient powers to enable him to assume command of all protective services in the community, both regular and voluntary, in an emergency.

The staff of the commander includes, besides the chiefs of the various services of the defense corps, an executive officer, comptroller, communications officer, the operating personnel of a control center, and other necessary technical, administrative, and clerical personnel. The control center becomes the commander's headquarters, from which all orders flow and into which all reports are sent during emergencies.

During an emergency the commander has no responsibility to the defense council. In the development of plans and programs for air-raid protection, however, the commander, as a member of the defense council, is in close consultation with other members. The planning committee on civilian protection is the medium through which the defense council makes its protection plans. The membership of this committee includes police and fire officials, engineers, an expert on communications, and representatives of management and labor from local war industries. In large communities associated committees help to plan and work out specific parts of the protection program. Each city has a health and medical subcommittee and perhaps committees on communications, fire defense, emergency traffic, public works, and public utilities. In order to prevent duplication of function, the health and medical committee of the war protection branch can serve as the health committee of the war services branch. Conversely, the welfare and child-care committee, which is recommended for the war services branch, can also plan a program for the emergency welfare service in the war protection branch. The chiefs of the emergency services are the chairmen of the planning subcommittees.

The civilian war services branch is the second major branch of the local defense council. It promotes and develops programs and activities sponsored by the civilian mobilization branch of the national and regional offices of the United States Office of Civilian Defense. It is headed by the executive of the citizens service corps.

The war services branch carries out its work through a group of committees composed of representatives of existing agencies and organizations concerned with each activity involved. The OCD recommends committees in the following fields: salvage, transportation, consumer interests, nutrition, recreation, services for men in the armed forces, welfare and child care, housing, education, war savings, agriculture, and plant utilization. All of these committees may be supplied with technical advice and assistance in their programs from the federal agencies in their fields. Volunteer members of the citizens service corps carry out the plans and programs developed by these committees.

In most communities (according to the OCD recommendations), the executive of the citizens service corps is assisted by an executive committee composed of the chairmen of the various committees established within the civilian war services branch. In small communities where

very few separate committees need be established, necessary coordination can be achieved by having these committee chairmen serve on the defense council itself. In this case no separate executive committee is required. Some local defense councils have found it desirable to create two major sections under the civilian war services branch to coordinate and bring together committees dealing with related interests—one dealing with health, welfare, and similar services, and the other dealing with such matters as salvage, war savings, and plant utilization.

Sources of Funds

Methods of financing local civilian defense activities have varied greatly throughout the United States. The approach to the problem has been different from city to city and from state to state. Municipalities have appropriated substantial sums for the expenses of civilian defense, but borrowing restrictions, tax rate limitations, and statutory restraints on the functions for which cities may spend money have forced them to seek financial support from private sources. In many cities equipment, personnel, supplies, and funds have been donated to defense councils by fraternal and civic organizations, business corporations, individuals, various government agencies, or political organizations.

The Office of Civilian Defense has advised local defense councils that "by far the best way of financing civilian defense activities in a community is through State, county, or municipal grant or appropriation. This grant or appropriation should cover the expenses of air raid protection and of other community war work centered in the Defense Council—salaries, equipment for and the operating expenses of the Council and of group, zone, and sector headquarters as well. In this way, facilities for civilian defense are equitably provided for all sections of the community just as they are for normal municipal services." The OCD urged defense councils to determine the financial needs of activities in their communities and to recommend community-wide plans which should include (1) a finance committee, (2) a budget, (3) a method of raising the funds, (4) a plan for administration and distribution of the funds, and (5) a method of accounting for their use. It warned that where this was not done, and groups, zones, or sectors were allowed to set their own quotas, solicit their own funds, administer and account for those funds without reference to the practice of other groups, zones, or sectors within a town, the council as well as the smaller units would be laying themselves open to charges of inequality and lack of responsibility.

The Office of Civilian Defense itself has not given financial assistance to local defense councils or local civilian defense activities except through the allocation of defense equipment—fire fighting equipment, medical supplies, gas masks, helmets, arm bands, etc. These supplies are purchased by the OCD with an appropriation of $100,000,000. Approximately seven hundred cities have so far been granted high priority ratings in the distribution of such equipment. This program is administered by the allocation section of the Civilian Protection Division of OCD, which determines, on the basis of Army recommendation, the amounts of equipment to be provided for each community in target areas. In making allocations, the vulnerability of a community to attack and the strategic character of industrial plants are both taken into account. Most of the equipment is being procured for OCD by the Army.

Thus far no state aid has been offered municipalities to meet the costs of local civilian defense programs, but in at least one state, Illinois, the Municipal League has called upon the State Defense Council to sponsor bills at the coming session of the legislature to establish a state fund of $10,000,000 annually, out of present balances in state funds, to distribute to cities for civilian defense purposes.

A number of the country's larger cities have appropriated considerable sums for use in local defense programs. Cities in New York State and on the West Coast have been particularly active. New York City reported spending $2,000,000 for 1941-42 and has appropriated $710,000 in its 1942-43 budget for emergency defense purposes. San Francisco, which had appropriated $12,000 prior to Pearl Harbor for civilian defense and $657,294 more from various city funds by May 1, has budgeted nearly $1,500,000 for 1942-43.

In the midwest, Kansas City has appropriated $25,000 for the present fiscal year. Dane County, Wisconsin, which includes the city of Madison, raised nearly half of its $7,000 fund

for civilian defense through contributions from local fraternal, civic, and other organizations, and the remainder came from cities, towns, and villages on a population basis. Wisconsin counties do not have power to appropriate money for civilian defense purposes.

It is difficult to get a complete picture of what local governments are spending and the items included under civilian defense. The totals mentioned above usually include only those appropriations which have been labeled in the budgets for civilian protection. Some increases in specific departmental appropriations provide further funds for this purpose. Many cities are financing these activities solely by increasing departmental expenditures. Others are using surplus and contingent funds or are issuing notes when necessary.

Economic Stabilization

IN ORDER to control inflation and to put into effect the price control act passed by Congress on October 2, the President on the following day issued an executive order establishing an Office of Economic Stabilization in the Office for Emergency Management of the Executive Office of the President. Supreme Court Justice James F. Byrnes was appointed director of the new office. An economic stabilization board to advise the director was also set up. The board consists of the Secretaries of Treasury, Agriculture, Commerce, and Labor; the chairman of the Board of Governors of the Federal Reserve System; the director of the Bureau of the Budget; the chairman of the National War Labor Board; the administrator, Office of Price Administration; and two representatives each of labor, management, and agriculture appointed by the President. Mr. Byrnes is chairman of this board.

The director of the Office of Economic Stabilization has the responsibility of formulating and developing a comprehensive national economic policy for the control of civilian purchasing power in order to prevent increases in the cost of living. To give effect to the policy developed, the director has power to issue directives on policy to all federal departments and agencies concerned. The administration of activities related to the national economic policy remains with the same departments and agencies, including the Office of Price Administration and the National War Labor Board, but the administrative policies of these agencies must now be approved or initiated by the Office of Economic Stabilization, and if conflicts occur either in policy or administrative matters, they are to be resolved by the director of the new office.

Rationing

Banks in upstate New York are now testing a plan, patterned by the Office of Price Administration after the rationing system used in England where the post offices are the administrative agents, whereby the banking system of the country would count and clear the hundreds of millions of rationing stamps being used in our expanding rationing system. The new plan, if successful in the test area and subsequently applied to all of the United States, will have no effect on consumers but will be of great assistance to businessmen. The plan contemplates the use of all state and national bank and clearinghouse facilities, and it has been worked out with the cooperation of bankers, the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. "The plan," the Price Administrator stated, "visualizes that each sugar and gasoline merchant, except gasoline retailers, would open a ration banking account at a bank, where he would deposit all ration credits received from consumers or other traders. These credits would then be transferred against the movement of rationed merchandise by the use of a non-negotiable 'transfer voucher' drawn by the buyer to the account of the seller, who in turn would deposit it for credit in his own account. The voucher would then be cleared back to the bank on which it was drawn for debit to the maker's account."

The first of the nation's "all-purpose" ration books, designed to provide a means for rationing any article or commodity as soon as the danger of a critical shortage appears, was sent to the printer in September by the OPA. The book is the first of four of its general type needed to provide ultimate complete flexibility in the rationing mechanism. It contains 192 coupons on eight pages, each page of different color, and each coupon separately designated by number and letter. The design makes possible the use of the book for straight coupon

rationing, such as now used for sugar, or the use of the point system whereby the consumer may "spend" his ration on various grades and kinds of a general type of commodity. The book is adequate for rationing at least two major groups of commodities for a minimum of six months.

One hundred fifty million of the new books will be printed to ensure adequate supplies at all distribution points when they are handed over to America's 132,000,000 people. This distribution will take place as soon as the printing job is completed, probably shortly before Christmas. The consumer will obtain his new book on the basis of his previous registration for War Ration Book No. 1, the sugar ration book. An adult representative of a family group may apply for books for all members of the family by presenting all the sugar ration books of that group. Consumers will retain their sugar ration books as their use will not be affected in any way by the new coupons. Values will be assigned to the new books both as to commodity and unit value as new rationing programs are put into effect.

The system of gasoline rationing, which is shortly to be spread throughout the United States as a means of controlling the mileage of automobiles, has been based on the state gasoline tax collection machinery. The OPA worked closely with state gasoline tax administrators in setting up the audit control system for gasoline rationing, and the state tax administrators' records are being checked closely against the rationing coupon records.

Standards for Price Administration

Early in September a new Standards Division was established in the Office of Price Administration to incorporate definitions of standards of quality into price, rent, and rationing regulations in order that the consuming public will be protected against debasement of quality, use of inferior materials, and "skimping" on quantity, measurements, and workmanship in the things it buys.

The Standards Division is providing OPA operating divisions with the technical assistance required to develop specific standards for inclusion in all OPA regulations where quality of product is a factor. These standards, which must be met if the commodity or product is to command the applicable maximum price, will include definitions of quality and may require goods to be identified and labeled accordingly. In the rent field the new division will define the nature and extent of facilities and services which tenants must receive in return for their rentals. The new division is making full use of the work being done by the Bureau of Standards, Department of Agriculture, War Production Board, and other government agencies, as well as qualified standardizing groups outside the government.

Transport Control

FOLLOWING closely upon its action assuming control of all commercial motor vehicles and requiring them to carry certificates of war necessity, the Office of Defense Transportation announced on September 9 the creation of nine regional field offices and an increase in the number of motor transport division district offices from 55 to 142. The new regional offices are to supervise and coordinate the work of the district offices, particularly in their administration of the war necessity program designed to further conservation of commercial vehicle equipment.

The war necessity program requires that after November 15, 1942, no commercial vehicle may be operated unless the operator of such a vehicle has in his possession a certificate of war necessity; before that date application forms will have been mailed by the ODT to all persons who were registered as owners of commercial vehicles on December 31, 1941.

The ODT intends to issue a certificate to every motor vehicle operator but to limit all of them to operations "which are necessary in the war effort or to the maintenance of the essential civilian economy." After November 15 the certificate must be carried at all times in the vehicle covered by it, and under an arrangement between the ODT and the OPA, coupons or other instruments authorizing the purchase of fuel, tires, and tubes will be issued only to operators presenting certificates. Dealers are forbidden to furnish gasoline, parts, tires, or tubes to any operator affected by the order unless he can present a certificate of necessity. The tires of every vehicle affected must be checked at a designated inspection agency every 5,000 miles or at the end of each sixty-day period, whichever occurs first, and

further use of the vehicle is prohibited unless the inspection agency certifies that the operator has given his tires all care necessary to conserve them.

The ODT has the power to require the person having possession or control of any commercial motor vehicle to operate it in such manner, for such purpose, and between such points as it may direct, or to lease or rent such vehicle to such person or persons as it may designate.

State motor vehicle departments, which have inspected automobiles periodically, are planning to continue to do so to protect motorists against defects that are likely to develop in old automobiles and tires. The difficulties involved in keeping skilled mechanics in the state inspection stations or in authorized service stations have caused several states, however, to conduct inspections less frequently. Sixteen states now have state-wide requirements for motor vehicle inspection, and five others authorize municipalities to require inspection of vehicles owned or used within their boundaries.

War Information

THE Office of War Information, streamlining the government's publication output to clear channels for war information, issued in September the first of a series of orders cutting down government publications and mailing lists. The order, OWI Regulation No. 3, eliminated 239 publications for the duration of the war and reduced 284 in size. At the same time, OWI named an interdepartmental committee to make a further survey of governmental publications in order to eliminate others.

OWI's regulation is divided into four parts. It makes binding for the duration all discontinuance and curtailment of publications and other informational materials made by any federal department or agency between July 1, 1941, and September 25, 1942; it establishes an Interagency Publications Committee to make further recommendations; it abolishes all general mailing lists built up of requests for "all releases and/or publications"; it prohibits sending of government releases by telegraph to newspapers, radio stations, or any other news medium without permission of OWI except at the request and expense of the receiver.

The action, which affected Department of Agriculture publications more than those of any other agency, was taken after a study by OWI, with the cooperation of other federal agencies, of the flow of governmental releases. During the study a number of agencies voluntarily abolished many publications not bearing directly upon the war. Over-all curtailment of nonessential publications and press releases in some nonwar agencies ran as high as 40 per cent.

A complete reorganization of the War Department's Bureau of Public Relations, designed to consolidate all public relations activities of the Department and to reduce the number of officers assigned to Army public relations work, has been completed at the direction of the Secretary of War. Many officers have been reassigned to field duty and all War Department public relations activities now are centralized in the bureau.

Under the reorganization, three assistants to the director were named to represent within the bureau the special interests and public relations of the three major commands—Army Air Forces, Army Ground Forces, and Services of Supply. Four operating divisions were also established: the news division, war intelligence, the executive division, and the industrial service.

War Legislation

A PREVIEW OF emergency war legislation to be considered by state legislatures in 1943 was given by the Council of State Governments with the release of a model state emergency war powers act to state officials and legislative leaders. The act deals particularly with emergency powers of the state and its chief executive, granting authority to the governor alone, or to the governor and his war council, to take certain emergency actions including the suspension of state laws and regulations if necessary to the war effort.

Other provisions of the act deal with blackouts and air-raid precautions, mobilization for fire defense, military traffic control, emergency health and sanitation, and "lend-lease" of state property. These provisions may be introduced separately or withheld to suit local needs. Still in the drafting stage are uniform state legislative proposals covering motor transporta-

tion, wartime fiscal policies, the easing of settlement and residence requirements for migratory workers, public works reserves, war housing, absentee voting, and the relaxing of building and zoning laws for the duration.

"Since Pearl Harbor there have been repeated instances where governors have needed clear-cut authority to carry out requests for necessary action having to do with prosecution of the war," the Council said in submitting the legislation for consideration of governors, attorneys general, commissions on interstate cooperation, executives of state defense councils, and legislative leaders. "Statutory authority, therefore, should be granted to enable chief executives of the states to act promptly and cooperate fully."

Justice Department Reorganizes

THE U. S. Department of Justice, which has had to increase its personnel from 9,000 to 29,000 in the last three years to administer wartime security programs, is now completing a general reorganization. In announcing the reorganization on September 26, Attorney General Biddle said that the impact of the war and the several programs for internal security in which the government was involved before the war had thrown an almost impossible burden upon the normal peacetime administrative machinery of the Department. He added, however, that "the departmental machinery has for some time needed a thorough overhauling."

The reorganization, which has brought about an extensive reassignment and redefinition of the duties and functions of the several offices, divisions, and bureaus in the Department, is the result of many months of study by the Department in cooperation with the Bureau of the Budget. It was formally accomplished in four major steps, spread out in time over the last six months. On May 19, a War Division, with the same status as other departmental divisions, was set up under the temporary direction of the Solicitor General. Within the War Division were coordinated (1) the alien enemy control unit, (2) the alien property unit, and (3) the special war policies unit, as well as certain wartime activities of the United States attorneys, the criminal division, and the war frauds unit.

On August 18, Mr. Biddle transferred the Bureau of War Risk Litigation, which litigates cases formerly handled by the Veterans Administration, to the supervision of the Claims Division. The abolition of the Bonds and Spirits Division of the Department was announced on September 24, to be effective October 20. Its functions were assigned to several other divisions within the Department. Besides effecting a saving of $150,000 yearly, this move released personnel needed for more urgent tasks connected with the war effort.

On September 26, four other principal changes were announced:

(1) The responsibilities of the Assistant to the Attorney General were broadened to make him general assistant for over-all supervision and management of the Department. With the exception of the Office of Information, all staff services were centralized in the Office of the Assistant to the Attorney General.

(2) All matters dealing with legislation and opinions were assigned to the Office of the Assistant Solicitor General. The legislative section was transferred from the Office of the Assistant to the Attorney General to the Assistant Solicitor General. General legislative policy, however, is cleared to the Attorney General through the Assistant to the Attorney General.

(3) The war frauds unit, formerly within the joint jurisdiction of the Antitrust Division and the Criminal Division, was transferred to the War Division. This move centralizes departmental war work under a single head.

(4) Civil enforcement of the priority orders of the War Production Board and civil litigation involving price control and rationing laws (not criminal matters) were assigned to the Antitrust Division.

City Manager for Houston

HOUSTON, TEXAS, is to become a city manager city in January, 1943. It will be the twenty-second of the ninety-two American cities with more than 100,000 population to operate under this form of government. It will be the third largest municipality operating under the city manager plan, ranking after Cincinnati and Kansas City.

The change from commission to city manager government in Houston was approved at the polls on August 15 by a 3,000 majority.

News of the Society

THE fourth annual meeting of the American Society for Public Administration will be held in Chicago, December 27 and 28 at the Sherman Hotel. The conference will be in conjunction with the annual meeting of the American Political Science Association, December 28 to 30, with a number of joint sessions of the two organizations on December 28.

The meeting will give public officials an opportunity to discuss with each other, and with students of public administration and political science from all over the country, problems of wartime government and administrative plans to meet postwar needs.

Among the subjects tentatively scheduled for discussion are manpower administration, the organization of civilian defense, the administrative aspects of economic stabilization, the administrative assistant, the government of occupied areas, administrative collaboration by public and private agencies, and administrative problems of international cooperation.

Chapter News

THE Alabama Chapter is continuing publication of its News Letter, although publication was suspended during the summer months. The September 1 number carried articles on state administrative reorganization, the silk industry, and the adoption of the city manager plan by the new city of Mountain Brook. The October 1 issue carried an article by the State Commissioner of Public Welfare, discussing the effort of the Montgomery Council of State and Federal Agencies to coordinate governmental programs within the county.

The Sacramento Chapter held a public meeting on October 15 to discuss the November ballot measure which provides for annual legislative sessions and annual state budgets. Senator Robert W. Kenny of Los Angeles County and Senator Edward H. Tickle of Monterey County, who wrote the official arguments in favor of the ballot measure, and Senator J. C. Garrison of Stanislaus County, who wrote the arguments against it, were invited to speak.

The San Francisco Bay Area Chapter met on September 24. Baldwin M. Woods, chairman of the Pacific Southwest Region of the National Resources Planning Board and professor of mechanical engineering at the University of California, spoke on "Trained Manpower for the Nation," stressing the necessity of conserving trained, specialized personnel and discussing the methods being used by the federal government to locate and use civilian and military specialists. Samuel C. May, director of the Bureau of Public Administration of the University of California, having just returned from a meeting of the California League of Cities, discussed the attitude of city officials toward wartime municipal problems and the future benefit to be derived from cooperative action in this emergency. Miss Grace Kneedler, research assistant at the Bureau of Public Administration, University of California, was appointed secretary of the chapter to replace Russell Barthell, who is now serving in the U. S. Army Air Corps. For the November meeting the chapter extended invitations to specialized societies and associations in the field of public administration, such as the California Housing and Planning Association and the American Association of Social Workers. Sir Ernest Simon of the British Ministry of Works and Planning and Lady Simon were to be the principal speakers.

The Connecticut organization committee met October 29 in Hartford. Carter W. Atkins, director of the Connecticut Council on Public Expenditures, addressed the group, explaining the objectives of the Council. Mr. Atkins was formerly director of the Governmental Research Institute of the city of Hartford.

The Chicago Chapter met on September 29. Earl Dean Howard, rent administrator for the Chicago metropolitan area and former professor of economics at Northwestern University, discussed the problems, techniques, and results of rent administration. Mr. Howard and Benjamin Baltzer, OPA rent executive for the sixth region, led the discussion.

The New York Chapter is planning a series of meetings for the winter. Among the speakers on the program are Colonel Otto L. Nelson, assistant secretary of the General Staff on Army Reorganization, Philip C. Jessup of the Columbia University Program of Training for International Administration, and Herman Finer of the International Labour Office.

The Washington Chapter has planned a program for the coming months to include discussions of the subjects manpower, public relations, management analysis, and centralization of administrative services. It is also planning to hold a "supervisors' clinic" to which case problems in administration will be brought for discussion. The chapter has appointed several new officers: as chairman of the program committee, G. Lyle Belsley, executive secretary of the War Production Board; as vice chairman of the program committee, Lyman S. Moore, assistant administrator, National Housing Agency; and as chairman of the membership committee, James V. Bennett, director of the Bureau of Prisons. Miss Nita Gavaris, research assistant to the Director of the Budget, was chosen to fill the vacancy on the executive committee caused by the resignation of Miss Julia J. Henderson, now at Wellesley College.